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Decision on Creation, Tenure of New Government

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[Decision No. 20 of the Constitutional Court, dated 23 December 1992, in Constitutional Case No. 30/1992, signed by President Asen Manov]

[Text] The Constitutional Court, made up of Asen Manov, president, and the following members: Mladen Danilov, Milcho Kostov, Tsanko Khadzhistoychev, Stanislav Dimitrov, Neno Nenovski, Teodor Chinev, Milena Zhabinska, Lyuben Kornezov, Pencho Penev, and Aleksandur Arabadzhiev, with recording secretary Stoyka Belova participating, considered, in closed session on 17 December 1992, k.d. [konstitutsionno delo, constitutional case] No. 30/1992, reported by Justice Aleksandur Arabadzhiev.

The proceedings in the case originated on the basis of a request made by 51 national representatives of the 36th National Assembly that a binding interpretation be given of the provisions of the Constitution of Bulgaria regulating the matter of the creation of a new government, the powers and term of the caretaker government, the status of the National Assembly, which was dissolved under the terms of Article 99, paragraph 5 of the Constitution, as well as the status of the national representatives from the membership of the dissolved National Assembly.

Constitutional case No. 29/1992 has been consolidated with the instant case. The former case originated on the request of the attorney general, made on the same grounds, namely, that a binding interpretation be given of provisions of the Constitution relating to the status of the National Assembly dissolved by the president under the terms of Article 99, paragraph 5, and of the national representatives from the membership of the dissolved National Assembly. Since the subject matter of the request in constitutional case No. 29/1992 is comprehended in that of constitutional case No. 30/1993, by official ruling, decreed at the session of 8 December 1992, the first of the aforementioned cases was consolidated with the second for joint consideration and decision, with proceedings terminated on the consolidated case.

A ruling of the same date, decreed in keeping with Article 19, paragraph 1 of the ZKS [Zakon za Konstitutsionniya Sud, Law on the Constitutional Court], accepted for consideration the request of the 51 national representatives that a binding interpretation be given of the provisions of the Constitution bearing on the status of the National Assembly that was dissolved under the terms of Article 99, paragraph 5, as well as on the status of the national representatives from the dissolved National Assembly.

The same ruling designated the following as interested parties in the case: the National Assembly, the parliamentary groups of the SDS [Union of Democratic Forces], the preelection alliance of the BSP and coalition and the DPS [Movement for Rights and Freedoms], the president of the Republic and the Council of Ministers. The interested parties were given an opportunity to express their position on the questions to be interpreted. Within the time frame set by the Constitutional Court position statements were received from the chairman's council, the parliamentary groups of the SDS and the preelection alliance of the BSP and coalition, the president of the Republic and the attorney general.

In order to render judgment on the requests made and accepted, the Constitutional Court took into consideration the following:

Section 1
On the Creation of a New Government

The procedure for the creation of a new government is contained in the provision of Article 99 of the Constitution. This procedure is employed both in cases of the creation of a government after the holding of parliamentary elections, i.e., in the case of a newly elected National Assembly, and also when the legal powers of the Council of Ministers terminate under the terms of Article III, paragraph 1 of the Constitution (Article 99, paragraph 6). The latter hypothesis is also employed when the powers of the Council of Ministers terminate under the terms of Article 112, paragraph 2—resignation of the government submitted after the Council of Ministers fails to receive a vote df confidence requested of the National Assembly. It is precisely this procedure that has been in operation since the resolution of the 36th National Assembly of 28 October 1992, adopted on the basis of Article 112 of the Constitution, in conformity with which the Council of Ministers failed to receive the requested vote of confidence. This procedure, in fact, also brings to light the circumstances whence springs the need for the requested interpretation and which occasion the admissibility for the exercise of this power of the Constitutional Court.

The procedure for the creation of a new government—after general legislative elections or after termination of the Council of Ministers' powers—is regulated from the perspective of the role that the president plays or, respectively, as the president's legal power insofar as the provision of Article 99 is to be found in the chapter of the Constitution that regulates the status of this institution and its functions. This role is mainly intermediary and this is in keeping with the parliamentary character appertaining to the creation of the government. The cabinet is created on a parliamentary basis and is dependent—not only in respect of the possibility of its creation but also in respect of its viability—on the distribution of the political forces in the parliament and on the support that it receives in the parliament.

The act that initiates the procedure under consideration falls to the president. The ukase whereby the candidate indicated by the largest parliamentary group is charged with creating a government, or the so-called trial mandate, is preceded by consultations with the parliamentary groups. The significance of these consultations is both political and constitutional. It varies—as does the

intensity—in the different phases of the procedure envisaged by the Constitution. At the beginning of this procedure the president is bound by the proportion of the political forces, expressed by the size of the parliamentary groups in terms of numerical strength, as well as by the order specified by the Constitution. This order, in accordance with which the candidate indicated by the parliamentary group with the greatest numerical strength is appointed first of all (Article 99, paragraph 1) and next the candidate indicated by the second largest parliamentary group (Article 99, paragraph 2) is inviolable. The president may not at this phase make a judgment regarding whom to charge with a trial mandate and may not himself seek a candidate from another parliamentary group or outside the parliament. Matters are different, however, in the event of the inability of the first two parliamentary groups to form a government. In this event, in conformity with Article 99, paragraph 3 of the Constitution assigns the designation of a candidate for prime minister to one of the following groups. The expression used premises the existence of more than three parliamentary groups. In the light of this, the Constitution prescribes that the president bestow the trial mandate on one of the next parliamentary groups, but not necessarily on the one immediately succeeding in numerical strength. There exists no obligation for the president to list consecutively all the parliamentary groups of which the National Assembly may happen to consist. The reason is easy to explain: Should there be a parliament of heterogeneous makeup, which as a rule is an obstacle to the formation of a strong and stable government, active intermediation is necessary. The Constitution entrusts this to the head of state—a function that is in keeping with his constitutional status. In this manner the important political and moral aspects of the activity in question take on a constitutional basis as well, with the president afforded an opportunity to seek out possibilities for the formation of a parliamentary majority able to set up a government. Emphasized here is the intermediary and, above all, unifying role of the president, viz., finding a way out in a situation defined by a multiplicity of political parties, by the splintered character of the parliament and the diverse orientation of the interests represented therein. Therefore his judgment is not limited by the numerical strength and the number of parliamentary groups. To be sure, when the National Assembly consists of three parliamentary groups, the president has to entrust the parliamentary group ranking third in numerical strength with the task of designating a candidate for prime minister, with no opportunity of making a judgment as to whether that party will be able to implement such a mandate. The significance of the moment, which comes after two unsuccessful tries, stems from an additional constitutional requirement. It is to be found in the provision of paragraph 3 of Article 99 and consists in the stipulation of a seven-day period within which the president must entrust one of the succeeding parliamentary groups with the designation of a candidate for prime minister. Unlike the first two rounds in which the president is not bound by a time limit within which he must bestow the trial mandate, from here on provision is made for an acceleration of the procedure since the period during which a new government cannot be formed (and a caretaker government or a government that has submitted its resignation is operating) may prove to be excessively long.

Another peculiarity of the procedure at this point is the fact that the president entrusts the charge first of all to one of the succeeding parliamentary groups, i.e., to a parliamentary group as such rather than to a designated candidate, and only after that is the trial mandate entrusted to a designated candidate for prime minister. The difference can be explained by the fact that an opportunity must be given to one of the succeeding parliamentary groups to conduct consultations also in order to seek and find a way of forming a stable coalition. Moreover, paragraph 3 of Article 99 of the Constitution answers another question, namely, whether the candidate for prime minister must present to the president a Council of Ministers slate. This follows both from paragraph 2 and 3 of Article 99; it follows also from the sense of the trial mandate, viz., to ascertain the possibility of forming a government. The obligation, envisaged in the above-indicated constitutional provisions, of whoever is entrusted with the trial mandate, to propose a Council of Ministers slate must be understood, apart from literally, also in the sense that there is reliance on his parliamentary support for a specific government, including its membership. This is how one must understand "agreement" [suglasie] to form a government, which is the point of paragraph 5 of Article 99. When the procedure for formation of a government is in step with the implementation of a trial mandate that has been bestowed, successful conclusion of the trial mandate in the sense of Article 99, paragraph 4 means that the candidate for prime minister has proposed to the president a Council of Ministers structure and slate. If this condition is fulfilled and the candidate meets the other constitutional requirements for eligibility, the president issues a ukase suggesting to the National Assembly his election as prime minister. At this stage the fact of his proposal of the government's structure and slate means the existence of an "agreement" [suglasie] for its formation. In this sense the Council of Ministers structure and slate submitted to the president are not subject to control by him. Hence the submittal itself suffices in order to establish that the mandate has concluded successfully and is grounds for suggesting to the National Assembly that it elect this candidate. It is not out of the question, however, that in the time between the dispatch of the suggestion to the National Assembly and the holding of the election, changes in the government slate submitted to the president may be necessitated. Regardless of whether they are occasioned by practical or political considerations, it is permissible for such changes to be made and they do not constitute a violation of the constitutionally established procedure for creation of a government.

In the next stage, which is essential for creation of the government because that government is brought into

being by decision of the National Assembly (Article 84, section 6 of the Constitution) and it is precisely this decision that has constitutional effect, the reaching of agreement in the sense of Article 99, paragraph 5 is signified by the election of the prime minister suggested by the president and, on the proposal of the prime minister, of the rest of the government slate. The Constitution fixes the procedure respectively for the election of the candidate for prime minister and of the Council of Ministers structure and slate that he proposes, whether this is done consecutively with two separate decisions or with one joint decision. In accordance with the aforementioned provision of Article 84, section 6, the prime minister is elected first and then, by separate decision, the Council of Ministers slate proposed by him. In this way the figure of the prime minister stands out prominently in connection with the election of the Council of Ministers. The working principle for the termination of the government's legal powers is based on the same idea (cf. Article 89, paragraph 2 and Article III, paragraph 1, subparagraphs 2 and 3 of the Constitution).

Something else that follows categorically from the constitutional text has to do with voting for the Council of Ministers slate in a manner called "en bloc." The establishment of the so-called "team principle" precludes the possibility of the Council of Ministers membership being determined by the parliament and of there resulting—in the event of a failure to elect the proposed slate as a whole—an unsuccessful conclusion of the mandate and the exhaustion thereof. This consequence occurs even in "en bloc" voting when particular individuals on the proposed slate are not elected. The inference which must follow is that if the government structure and slate proposed by the elected prime minister are not approved by the National Assembly, the mandate must be regarded as exhausted, i.e., it has concluded unsuccessfully. Since the parliament has failed to elect the proposed Council of Ministers, this signifies a lack of agreement or, as the case may be, a failure to achieve agreement, which results either in the entrusting of the mandate to a candadate of the next parliamentary group, or—if the constitutional possibilities are exhausted—to dissolution of the parliament and the appointment of a caretaker government. There is no provision for the possibility of the already elected prime minister proposing a new government slate.

In the election of the prime minister the question may be raised whether the candidate must inform the National Assembly of the government slate and structure that he intends to propose if elected. The Constitution makes no explicit provision for such requirement and it cannot be deemed inferable from the logic of the procedure. Whereas in the preceding stage the submittal to the president of a government structure and slate is a condition for a successful conclusion of the mandate (Article 99, paragraph 2), in the National Assembly vote such condition is the election itself. It is a different matter whether, for political or pragmatic reasons, the National Assembly can be informed about the government structure and slate so as to influence the election of the candidate for prime minister.

In all events, if it comes to the termination of an elected government's powers by reason of the submittal of its resignation, even after a brief existence, the procedure under Article 99 has to begin all over again, rather than continuing by proceeding to a mandate of a parliamentary group coming after the parliamentary group that appointed the government that resigned. The length of time for which the government existed makes no difference.

To conclude the deliberations set forth above on the questions here under consideration having to do with the creation of a new government, the provisions of the Constitution that regulate them can be thus interpreted in summary form:

—Given more then one parliamentary group, the president is not limited under paragraph 3 of Article 99 of the Constitution by the numerical strength of the parliamentary group and does not have to entrust a trial mandate to candidates for prime ministers listed thus consecutively by all parliamentary groups. In this case the president is empowered to make a judgment as to which parliamentary group he will entrust with designation of the candidate for prime minister. If there are only three parliamentary groups, the president has to entrust the parliamentary group racing third in numerical strength with the task of proposing a candidate for prime minister;

—The trial mandate is concluded successfully when the candidate to whom it is entrusted—and who meets the eligibility requirements—submits a Council of Ministers slate to the president. This does not preclude changes in the proposed slate before the National Assembly vote;

—When the National Assembly elects a prime minister but refuses to elect the Council of Ministers structure and slate proposed by him, it is deemed that his mandate has concluded unsuccessfully and the procedure to elect a government continues with the entrusting of a trial mandate to the candidate of the next parliamentary group if there is such, or in the manner indicated in Article 99, paragraph 5 of the Constitution;

—When a government once elected submits its resignation, the creation of a new government is accomplished under the procedure indicated in Article 99, paragraph 1 of the Constitution, regardless of the length of time for which this government has existed.

Section II
On the Powers and Term of a Caretaker Government

Exhaustion of the procedure under Article 99 of the Constitution for the creation of a parliamentarily based government entails the appointment of a caretaker government, the dissolution of the National Assembly, and

the scheduling of new elections (Article 99, paragraph 5). This is accomplished by presidential acts, issued simultaneously.

Given the disorganization of the majority in parliament, resulting in the failure of the National Assembly to set up a government itself, the dissolution of the National Assembly is a consequence of this failure. The holding of new elections is a way of resolving the crisis through a possible restructuring of the parliament that will homogenize the parliamentary majority. Naturally, given this situation, the power to dissolve the National Assembly and appoint a caretaker government is granted to the head of state. Lest, however, there should eventuate a different system of government (presidential rather than parliamentary as established by the Constitution), the Constitution provides a number of guarantees. The first of these consists in the fact that the president can dissolve the parliament solely in the event of the exhaustion of all constitutional possibilities of forming a government that has the confidence of the parliament. Another guarantee is contained in the requirement under Article 99, paragraph 5, clause 2, in accordance with which the act whereby the president dissolves the National Assembly, shall also set the date of the elections for a new National Assembly, with the new elections, as a rule, to fall within a time frame in accordance with Article 64, paragraph 3. Third, the president may not dissolve the parliament in the last three months of his mandate (Article 99, paragraph 7).

It is customarily assumed that the competence of a caretaker government is limited in time and purpose. It follows from the constitutional text itself that it is of a temporary character. Although the term of its powers cannot be estimated, the beginning and end of this term can be determined. The beginning is initiated by the presidents ukase whereby this government is appointed (a consequence of this ukase is the termination of the legal powers of the resigned government). The end is marked by the election of a new government in accordance with the procedure of Article 99 of the Constitution by the newly elected National Assembly. It can be seen that in the best case the term in question runs about three months (with the period of time under Article 75 added to the period of time under Article 64, paragraph 3), but in practice it can last longer. It can also be seen that a caretaker government does not in all cases act in the absence of an active National Assembly. Apart from the hypothesis in Article 99, paragraph 7 in which the National Assembly is not dissolved at all, a caretaker government can function for a certain time together with the newly elected National Assembly.

Given the tenet that "parliamentary government" is established in Bulgaria (Article 1, paragraph 1 of the Constitution), an essential feature of which is political control exercised by the National Assembly over the government or, as the case may be, the necessity that the government have the confidence of the National Assembly, the fact that the caretaker government is appointed by the president gives reason to believe that its functions are limited.

Apart from this conclusion, which can be drawn on the basis of the Constitution, other grounds for defining the powers of a caretaker government through interpretation of the constitutional text are limited. A certain indication is contained in the very name of this government. It is a caretaker government [sluzhebno pravitelstvo], as has been noted, first and foremost, because of the manner in which it is formed. It eventuates "if no agreement for the formation of a government is reached." The general formula, "failure to reach an agreement" (Article 99, paragraph 5, clause 1), in final analysis reflects the impossibility of forming a parliamentary majority that will serve as a stable foundation of a strong government. In this sense the government is "caretaker." It is "caretaker," on the other hand, because it must perform certain functions pending the holding of new elections (including making arrangements for the elections themselves).

On the face of the constitutional text another correct limitation can be substantiated, namely, the extent to which the caretaker government usually acts in the event of a dissolved National Assembly. When certain acts of the government are subject to prior approval by the National Assembly (for example, the conclusion of state loan treaties—Article 84, section 9 of the Constitution), the impossibility of obtaining such consent limits the competence of the caretaker government. When, however, the actions of the government are subject to subsequent approval by the National Assembly, ratification can be obtained from the newly elected National Assembly.

The understanding pointed out here is grounded on the above-indicated constitutional provisions and on the constitutional idea and a system of government that is responsible to the National Assembly. Hence follows the limited character of the functions of the government appointed by the president—a characteristic that must be borne in mind in any case of its functioning and in any assessment of its actions. The powers of the caretaker government cannot, however, be enumerated through interpretation of the Constitution. Nor is a binding definition of these powers possible through a separate law. In fact, there is no provision in the Constitution for such an enumeration of the Council of Ministers' powers at all. Through use of the so-called general clause in Article 105, paragraph 1, note is taken that the Council of Ministers directs and implements the country's domestic and foreign policy in conformity with the Constitution and the laws. The caretaker government within the framework of this general competence granted to the Council of Ministers is empowered to decide current questions of domestic and foreign policy. Apart from the above-noted "indisputable" impermissibility of a certain action from a constitutional viewpoint, no conflict with the Constitution of any action whatever from within the scope of the Council of Ministers' competence can be substantiated. Hence it has all the legal powers that are granted to the Council of Ministers in Chapter V of the Constitution.

Owing to the nature of the functions performed by the caretaker government, as well as to the fact that usually it is not implementing a politically generated and supported program, it must be deemed that the exercise by it of legislative initiative is permissible within the boundaries delineated by the limited character of this government's purposes and functions.

The caretaker government's participation in the legislative process through the exercise of legislative initiative is also limited by the fact that, as a rule, it is acting at a time when the powers of the National Assembly have ceased due to its dissolution. There exists, however, the possibility that the caretaker government may be functioning simultaneously with an active parliament (hypothesis of Article 99, paragraph 7, following the election of a new National Assembly, while a new government is being created and during renewal of the dissolved National Assembly's powers). In these cases the caretaker government is an object of a parliamentary control, the bounds of which are constricted by the fact that they cannot result in effecting political responsibility to the parliament. The caretaker government is appointed by the president and exists until the election of a government in accordance with the procedure established in Article 99 of the Constitution. Therefore its fate cannot be a function of political responsibility effected by means of parliamentary control. However, these forms and means of parliamentary control, which do not entail the most onerous degree thereof, viz., a vote of no confidence in the government, can be put into effect.

Within these constricted limits, parliamentary control cannot be used to impose juridical sanctions on the decisions and actions of the caretaker government. As a rule, parliamentary control cannot be considered as a means for the parliament to govern, for the parliament does not govern but leaves it to the government to do that. On the other hand, it would be a violation of the principle of the separation of powers (Article 8 of the Constitution) if the National Assembly were permitted to rescind acts of the government that it deemed illegal or wrong.

During the time frame of the caretaker government's legal powers the president has a right to make changes in its membership. The Constitution makes no provision banning that.

In this sense it must be assumed that the president is also permitted to change the caretaker government's structure. In conformity with Article 84 of the Constitution, changes in the structure of the Council of Ministers are made by the National Assembly in accordance with a proposal of the prime minister. That is the way in the case of a prime minister and a Council of Ministers elected by the National Assembly. When the president appoints a caretaker government, he is not limited by the Constitution in specifying its structure, especially as in view of the special features characteristic of this cabinet the president may decide to rationalize the government or make it more economical. In accordance with the reasoning set forth above, the following constitutional interpretation bearing on the questions under consideration regarding the caretaker government's legal powers and its term can be given:

—The caretaker government is of a temporary character. It is appointed by the president when the constitutional possibilities of forming a government that will enjoy the confidence of the National Assembly are exhausted. The term of its legal powers lasts till the formation of a duly elected government in accordance with Article 99 of the Constitution. In final analysis, this term is determined by the creation of a government by a newly elected National Assembly;

—With the appointment of a caretaker government, the Council of Ministers that has resigned ceases to function;

—The caretaker government, as a rule, exercises the legal powers of the Council of Ministers, defined in Chapter V of the Constitution;

—From the fact that the caretaker government does not receive its mandate from the parliament there follows a certain limited character of its functions. This is not definable or legally regulated, but is a consequence of the limited period of the caretaker government's functioning, and of its purpose, viz., to administer current matters of the country's domestic and foreign policy until legislative elections are held and a regular government is elected; it is a consequence of the limited character of the parliamentary control exercised over it, as well as of the nonparliamentary source of its legal powers;

—The caretaker government is not an object of a parliamentary control that seeks to bring about political responsibility;

—The president may make changes in the caretaker government's structure and membership.

Section III

On the Status of the National Assembly Dissolved Under the Terms of Article 99, Paragraph 5 of the Constitution, and of the National Representatives From the Dissolved National Assembly

When the president dissolves the parliament, the dissolution results in termination of the National Assembly's powers. The significance of the concept of "dissolution" is widely known. In neither a history-of-law nor a comparative-law sense does its effect arouse suspicion. That effect is manifested in the termination of the parliament's legislative term as well as the national representatives mandate. The termination of the National Assembly's powers as a result of dissolution is a natural consequence of a crisis in the relations between the legislative and the executive authority that provoked it. To overcome this crisis, recourse is had to the holding of new elections. It is precisely the elections that are the ultimate democratic remedy and are intended to offer a way out of the situation that has arisen. That is why

dissolution of the parliament is provided for in a single solitary instance, is granted to the head of state, and its exercise is attended by the guarantees already noted against the establishment of a nonparliamentary system of governance. These juridical restrictions, in conjunction with the conditions on which the National Assembly is dissolved and, simultaneously with the dissolution, the scheduling of elections in short order, are supplemented by the moral and political guarantees present in the functions of the head of state, who is empowered to dissolve the National Assembly and to appoint a caretaker government. The Constitutional Court assumes that the neutral position in which the president of the republic is situated, the idea of his arbitral functions and, in general, his overall status as head of state ensure stability, continuity, and the constitutionality of state governance. As has been pointed out, the new elections are the ultimate way of reaching an agreement between the state authorities. Pending the holding thereof, the Constitution has entrusted these functions to the president.

In the light of the constitutional solution here set forth, the Constitutional Court does not accept the argument according to which the Constitution establishes the principle of continuity of the full powers of the national representatives who make up the supreme organ of the country. The powers of the National Assembly cease with the publication of the president's ukase for its dissolution. They do not continue during the period up to the election of a new National Assembly. The Constitution in force in Bulgaria contains no provision like that of Article 39, paragraph 1 of the FRG's Fundamental Law, according to which the Bundestag's mandate ceases with the formation of the new Bundestag, or like Article 61, paragraph 3 of the Constitution of the Italian Republic, according to which the powers of the former chambers continue until the convening of the new chambers. To the contrary, according to Article 64 of the Bulgarian Constitution the powers of a National Assembly cease on expiration of the term for which it was elected, while according to paragraph 3 elections for a new National Assembly shall be held not later than two months after termination of the former parliament's powers. Hence there is a period during which no parliament functions since the powers of the former parliament have ended (express language of the constitutional text), while no new one has yet been elected. The situation is not inadmissible and nothing follows from the fact that according to Article 1, paragraph 1 of the Constitution Bulgaria is a republic with a parliamentary government. Besides specifying the form of state governance (a republic), this provision gives a fundamental directive regarding the constitutional relationship among parliament, government, and head of state. Once political life is centered in parliament and government has to have the confidence of parliament, the system of governance is parliamentary. But this does not mean that the state cannot exist without a parliament or that it loses its essential character as per Article 1, paragraph 1 because of the termination of the National Assembly's powers before the expiration 6f its term, especially as there are express constitutional provisions to the opposite effect.

Nor does the idea of continuity of the National Assembly's functions find support in the provision of Article 74 of the Constitution. The National Assembly is a standing body, but only during the period of its legislative functioning, during the period of its mandate. Article 74 is not intended to determine the length of the National Assembly's mandate, but rather to indicate that during its mandate the National Assembly sits continuously except in periods which it has itself appointed as recesses (cf. clause 2 of Article 74).

Finally, there are no grounds for maintaining that since Article 72, paragraph 1 of the Constitution exhaustively enumerates the grounds for termination of the National Assembly's powers before the expiration of its term, Article 99, paragraph 5 cannot provide for other such grounds. This view fails to take account of the fact that Article 72, paragraph 1 applies to the individual mandate of each national representative separately, while Article 99, paragraph 5 concerns the mandate of a National Assembly as a whole. Article 72, paragraph 1 enumerates (indeed exhaustively) the grounds for termination of a national representative's powers before the expiration of his term. This is obvious both from a literal interpretation and from the nature of the individual grounds since each one of them applies to a particular individual—death, judicial sentence, ineligibility, incompatibility, submittal of resignation; whereas in the event of the termination of a National Assembly, including termination as a result of dissolution, the fate of the individual mandate is a function of the powers of the entire National Assembly.

It is impermissible for national representatives to continue to hold full powers given the situation that the existence of the body that they constitute has ceased. With the dissolution a situation ensues identical with that connected with the expiration of the term for which a National Assembly was elected. Since in the hypothesis of an expired legal mandate the powers of each of the national representatives obviously are a function of the termination of the powers of the National Assembly, there are no grounds for a different solution when the termination is due to dissolution. Nor do any such grounds follow from the fact that the provision of Article 99, paragraph 5 of the Constitution, which establishes the conditions for dissolution, does not decree termination of full powers since the purpose of scheduling new elections—an act that accompanies the dissolution of a National Assembly—is to elect a new National Assembly because of the termination of the powers of the dissolved National Assembly. In both hypotheses, termination of the mandate of the National Assembly itself ensues. Therefore in both hypotheses this results in termination of the national representatives powers. The distinction in the grounds therefor—expiration of the term for which the National Assembly was elected, in the one case, and dissolution, in the other, has to do with the

National Assembly itself. As regards the national representatives, nothing gives rise to such a distinction so it must be assumed that the legal consequences for the national representatives status are identical.

This means that the national representatives do not enjoy a deputy's immunity, receive no remuneration, and, as far as they are concerned, the incompatibility requirements under Article 68, paragraph 1 of the Constitution do not apply. In this situation there can, of course, be no question of submitting a resignation or of replacing a national representative who has submitted his resignation. After dissolution, parliamentary commissions also cease to function. The questions in respect of Article 84, sections 9, 10, and 11, and Article 85 of the Constitution are, in principle, questions of the National Assembly's competence. It has already been noted that without the National Assembly's prior consent the government (or, as the case may be, the caretaker government) may not enter into a treaty for a state loan. As for the questions in respect of sections 10 and 11, as well as section 12 of Article 84, the Constitution permits their decision by the president when the National Assembly is not in session, stipulating at the same time the immediate convening of the National Assembly in order to pass on such decision (Article 100, paragraph 5). If the National Assembly has been dissolved, the declaration of a state of war or of some other extraordinary situation creates grounds coinciding with those under Article 64, paragraph 2 of the Constitution. The effect of the occurrence of such a situation must be analogous in respect of the mandate of a dissolved National Assembly—in that case the mandate is renewed and the National Assembly is convened in accordance with the procedure of Article 78 of the Constitution.

The view here set forth finds another confirmation in a provision of the Constitution. We refer to Article 64, paragraph 2, in accordance with which in the event of war, martial law, or other extraordinary situation occurring during or after the expiration of the National Assembly's mandate, the term of its full powers is extended or renewed until these circumstances cease to exist. Hence, the Constitution permits the "extension" (the effect is actually renewal) of an already terminated mandate. The mechanism of Article 64, paragraph 2 can also be employed in the event of a dissolved National Assembly. It has powers that are terminated and it "is not in session." Given this situation and the occurrence of the circumstances in Article 100, paragraph 5, the National Assembly's powers are renewed by virtue of these circumstances and it can be convened not only to pass on the decisions made by the president, but also to function generally until the circumstances occasioning renewal of the mandate cease to exist.

The foregoing permits the drawing of the following conclusions regarding the powers of a dissolved National Assembly and the legal status of the national representatives from the dissolved National Assembly:

—A National Assembly dissolved under the conditions of Article 99, paragraph 5 has powers that have been terminated. Its powers can be extended only in the event of the occurrence of the circumstances in Article 64, paragraph 2, and for the purpose it will be convened in accordance with the procedure of Article 78 of the Constitution;

—On dissolution of a National Assembly the national representatives have no chance of exerting control over the ministers, including control through exercise of the right of questioning, because the dissolved National Assembly is not in session, as well as because the significance of parliamentary control is limited as far as the caretaker government is concerned;

—On dissolution of a National Assembly the national representatives lose their rights and duties as such. These rights and duties are restored on the extension of the National Assembly's powers under the conditions of Article 64, paragraph 2 of the Constitution.

It is in this sense that the provisions of the Constitution regulating the questions considered in this section are to be interpreted.

On the basis of what has been set forth here and on the grounds of Article 149, paragraph 1, subparagraph 1 of the Constitution, the Constitutional Court decides as follows:

I. Concerning the Creation of a New Government

If there is more than one parliamentary group, according to paragraph 3 of Article 99 of the Constitution the president is not limited by the numerical strength of the parliamentary groups, and is not obliged to entrust a trial mandate to candidates for prine minister designated by any of these. In this case the president is legally empowered to make a judgment as to which parliamentary group to entrust with the designation of a candidate for prime minister. When there are three parliamentary groups, the president must entrust the third parliamentary group with designating a candidate for prime minister.

The trial mandate is concluded successfully in the sense of Article 99, paragraph 4 of the Constitution when the candidate to whom it is entrusted—a candidate who meets the eligibility requirements—presents his Council of Ministers slate to the president. This does not preclude changes in the proposed slate before the National Assembly vote.

When the National Assembly elected the prime minister, but refuses—as far as structure and slate are concerned—to elect the Council of Ministers he has proposed, it is deemed that this candidate's mandate has concluded unsuccessfully and the procedure for the election of a government continues with the entrusting of a trial mandate to a candiate from the next parliamentary group, or in the manner indicated in Article 99, paragraph 5 of the Constitution.

When a government once elected submits its resignation, the creation of a new government is accomplished in accordance with the procedure envisaged in Article 99 of

the Constitution, regardless of the length of the period for which this government has existed.

II. Regarding the Powers and Term of a Caretaker Government

The caretaker government is of a temporary character. It is appointed by the president when the constitutional possibilities for formation of a government enjoying the confidence of the National Assembly are exhausted. The term of its powers continues until the formation of a government in accordance with the procedure established in Article 99 of the Constitution.

A caretaker government exercises the powers of: a Council of Ministers, defined in Chapter V of the Constitution. A certain limited character of its functions results from the fact that it does not receive its mandate from the parliament. This limited character is not definable or legally regulated but is a consequence of the following: limitations on the time for which the caretaker government will function; its purpose which is to manage current questions of the country's domestic and foreign policy pending the holding of legislative elections and the creation of a government by the newly elected National Assembly; the limited character of the parliamentary control exercised over it; the absence of a parliament when the National Assembly was dissolved; the nonparliamentary source of its powers.

A caretaker government is not the object of a parliamentary control that aims at effecting political responsibility.

III. Regarding the Status of a National Assembly Dissolved Under the Conditions of Article 99, Paragraph 5 of the Constitution, and of the National Representatives From the Dissolved National Assembly

A National Assembly dissolved under the conditions of Article 99, paragraph 5 of the Constitution has powers that have been suspended. Its powers can be restored only on the occurrence of the circumstances stipulated in Article 64, paragraph 2, with its convening for the purpose in accordance with the procedure of Article 78 of the Constitution.

On dissolution of a National Assembly, the powers of the national representatives are suspended, too. This means that they lose their deputy's immunity, they cease receiving remuneration as national representatives, they cannot exercise parliamentary control, the incompatibility requirements of Article 68, paragraph 1 of the Constitution cease to apply as far as they are concerned; parliamentary commissions cease their operation.

Justice Pencho Penev signed the decision with a separate opinion in respect of Section III of the dispositive portion of the decision.

Law on Separation of Czech, Slovak Currency

93CH0372A Prague MLADA FRONTA DNES in Czech 3 Feb 93 p 7

[Unsigned publication of the law and supplemental government order: "Law on Separating the Currency as Approved by the Chamber of Delegates"]

[Text] On 2 February 1993, the parliament agreed on the following law of the Czech Republic:

BASIC PROVISIONS

Section 1

(1) For purposes of separating the currency, the Czech National Bank will affix cachets to all bank notes issued by the State Bank of Czechoslovakia, which are legal tender on the territory of the Czech Republic until the day this law becomes effective (hereinafter referred to only as "bank notes"). The cacheting of bank notes will be conducted either by the gluing on or the printing on of the cachet.

(2) As of the day of currency separation, decreed by government regulation (hereinafter referred to as the "day of currency separation"), bank notes that have been cacheted in accordance with this law, bank notes that the implementing regulation does not require to be cacheted, coins issued by the State Bank of Czechoslovakia, and bank notes and coins issued by the Czech National Bank in accordance with a special law shall be legal tender on the territory of the Czech Republic.

(3) All persons identified by this law are guaranteed an exchange of bank notes that require cacheting, according to the implementing regulation, for bank notes and coins according to Paragraph 2 above by the method and at the time stipulated by this law and by the implementing regulations.

(4) The nominal value of obligations and claims expressed in Czechoslovak korunas shall be recomputed in Czech korunas as of the day of currency separation at a ratio of 1:1.

EXCHANGE OF BANK NOTES

Section 2

(1) Private individuals who have a permanent residence on the territory of the Czech Republic on the days of currency exchange or who are long-term residents of the Czech Republic or who have been granted refugee status in the Czech Republic (hereinafter referred to as "authorized individuals") shall exchange bank notes at selected organizational units of the Czech Postal Service, state enterprise, and selected branches of the Czech Savings Institution, stock corporation (hereinafter referred to as "exchange locations") for bank notes and coins in accordance with Section 1, Paragraph 2 above. The exchange is conducted on the basis of the presentation of the identity card or a residency permit or suitable replacement documents (hereinafter referred to as "proof of identity").

(2) Authorized persons who are older than 15 shall have their bank notes exchanged at the exchange location up to a maximum of 4,000 korunas [Kcs] per person, and individuals under age 15 may exchange bank notes up to a maximum of Kcs1,000 per person. The exchange of bank notes shall be conducted on a one-time basis.

(3) Bank notes in excess of the quantities listed in Paragraph 2 above may be exchanged by the method and at the time stipulated in the implementing regulations. A similar procedure shall prevail even where the authorized individual has presented smaller amounts of bank notes for a one-time exchange than the quantities listed in Paragraph 2 above and presents additional bank notes for exchange.

(4) In behalf of authorized persons who are younger than 15 and for authorized individuals who have been deprived of the right to take legal actions, bank notes for exchange are to be presented by their legal representatives. For purposes of the exchange, these legal representatives shall present proof of identity and a document that clearly indicates their position as legal representative.

(5) Another authorized individual who is older than 18 may exchange bank notes for an authorized individual, provided he presents his own proof of identity and the proof of identity of the authorized individual for whom the exchange is being handled, or a document listed in Paragraph 4 above.

(6) Okres and community offices and directors (chiefs) of hospitals, therapeutic facilities, institutes of social welfare, refugee camps, institutes for incarceration, and other similar facilities are responsible for seeing to it that the exchange of bank notes will be carried out even for authorized individuals whose physical or mental state or other objective reasons make it impossible for them to accomplish the exchange for themselves and who cannot do so even through another individual.

(7) The exchange location shall make an entry in the identity document indicating that the exchange of bank notes has been accomplished.

(8) For purposes of accomplishing bank-note exchange, exchange locations may set up separate work sites.

Section 3

(1) Foreigners, with the exception of private individuals having long-term residence or permanent residence on the territory of the Slovak Republic, may have their bank notes exchanged at branches of the Czech National Bank and have selected branch offices of banks authorized to do so by the governor of the Czech National Bank. The exchange is accomplished up to the amount of legally acquired Czechoslovak currency on the basis of presentation of a travel document or a document replacing it, which is used to verify the identity of the individual involved. The exchange of bank notes is recorded in a document certifying the legal acquisition of Czechoslovak currency.

(2) Foreigners who have a permanent residence or a long-term residence on the territory of the Czech Republic have their bank notes exchanged in accordance with Section 2.

Section 4

(1) The exchange of bank notes for legal entities located on the territory of the Czech Republic, their organizational components, and other similar entities active on the territory of the Czech Republic (hereinafter referred to as "legal entities"), with the exception of banks, shall be conducted on a one-time basis by those banks at which these entities maintain accounts.

(2) The exchange of bank notes according to Paragraph 1 above is carried out up to an amount that is facilitated by the technical conditions of the bank, but an amount that must not exceed the cash remainder that is documentable by an entry in the daily cash record as of the moment of currency separation and the exchange is recorded in that record.

(3) In the event the technical conditions of the bank make it impossible for it to exchange the entire cash remainder, the bank shall certify acceptance of the bank notes by a method stipulated in the implementing regulations.

(4) Following negotiations with the banks, the Czech National Bank shall determine the method the banks shall use for exchanging bank notes.

Section 5

The exchange of bank notes for private individuals who are businessmen and who have a permanent residence on the territory of the Czech Republic and who have an account with the bank is handled by the method listed in Section 4 above.

Section 6

Legal entities listed in Section 4 and private entrepreneurs listed in Section 5 are obliged to accept bank notes regarding which the implementing regulations stipulate that they are subject to cacheting up to the moment of currency separation.

Section 7

The exchange of bank notes it was impossible to exchange for serious reasons during the days of the exchange may be handled by the Czech National Bank for a maximum period of six months from the day of currency separation.

COMMON, TRANSITORY, AND CONCLUDING PROVISIONS

Section 8

(1) In the case of claims that are payable during the days of bank-note exchange and that cannot be compensated for without using cash, all time limits connected with this claim are extended by 14 days from the due date.

(2) The provisions of Paragraph 1 above do not apply to claims arising in conjunction with social security regulations, with hospital and health-care insurance, and claims based on income taxes.

(3) Pensions due during the exchange days may be paid to recipients, with their approval, in cacheted bank notes or possibly in bank notes the implementing regulations exempt from the cacheting requirement.

Section 9

For purposes of exchanging bank notes, the Czech National Bank may issue cashier's receipts that are not redeemable for 10 days from the exchange day and that have the nature of securities.

Section 10

(1) In conjunction with the exchange of bank notes, the withdrawal of cash from accounts at banks and from deposit books is restricted for an essential period of time. The period of restriction covering the withdrawal of cash from accounts at banks and from deposit accounts shall be stipulated by the government by regulation but shall not exceed a period of seven days.

(2) From the day this law is effective until the day stipulated by the government by decree, legal entities and private individual entrepreneurs are obliged to conduct payments contacts mutually by the cashless method (in amounts exceeding Kcs10,000) through accounts at their banks. The duty to conduct payments contacts by the cashless method does not apply to the payment of taxes.

(3) As of the effective date of this law, private individuals and legal entities may not conduct cashless transfers and payments in cash in Czechoslovak currency intended for recipients on the territory of the Slovak Republic. The banks and the postal authorities are obliged to return such payment orders to such clients.

(4) As of the effective date of this law, the Czech National Bank is authorized to return payments in Czechoslovak currency to banks that have a seat on the territory of the Slovak Republic, where such payments are destined for recipients on the territory of the Czech Republic.

(5) Payments according to Paragraph 2 above are considered to be all payments made by a legal entity or a private entrepreneur in a single calendar day to the benefit of a single recipient.

(6) For violations of the duties outlined in Paragraph 2 above, the Ministry of Finance shall assess a fine against the individual making such a payment, the fine being 20 percent of the amount of payment involved. The fine may be levied at the latest within one year from the day the duty was violated.

Section 11

In cacheting and exchanging bank notes, the banks and exchange locations shall be guided by instructions issued

by the governor of the Czech National Bank. For purposes of operational management of the exchange of bank notes, the Czech National Bank shall establish commissions; the commissions are headed by a commissar, who is appointed by the governor of the Czech National Bank.

Section 12

Magistrates (mayors) of communities, heads of okres offices, directors of police formations with territorial jurisdiction, and commandants of military garrisons are obliged to collaborate with the Czech National Bank and the commissars (Section 11) in assuring the security of exchange locations and the transportation of money.

Section 13

(1) By decree, the government shall stipulate:

a) the day of currency separation for the Czech Republic;

b) the time period during which bank notes will be exchanged;

c) the time period during which the withdrawal of cash from bank accounts and deposit accounts is to be restricted and the termination of restrictions involved in making cash payments.

(2) By proclamation, the Czech National Bank shall stipulate:

a) the types of bank notes subject to cacheting;

b) the types of cachets and their description and the description of cashier's receipts;

c) the procedures to be used in exchanging bank notes according to this law.

Section 14

Bank notes and coins issued by the State Bank of Czechoslovakia, which are legal tender according to Section 1, Paragraph 2, above, shall be exchanged by the Czech National Bank for a maximum period of one year after termination of their validity.

Section 15

(1) As of the day of currency separation, Section 56 of Law No. 6/1993 Sb. [Collection of Laws] on the Czech National Bank is rescinded.

(2) The possibility of exchanging invalid bank notes issued by the State Bank of Czechoslovakia, as stipulated in special regulations, ends effective on the day of currency separation.

Section 16

This law becomes effective on the day of its publication.

Government Regulation Covering Currency Separation

According to Section 13, Paragraph 1 of the law on currency separation (hereinafter referred to as "the law"), the government stipulates the following:

Section 1

Effective on 8 February 1993, the currency of the Czech Republic is separated from the currency of Czechoslovakia.

Section 2

(1) The exchange of bank notes subject to cacheting (hereinafter referred to as "bank notes") for authorized individuals (Section 2, Paragraph 1 of the law) at exchange locations (Section 2, Paragraph 1 of the law) shall be accomplished from 4 February through 7 February 1993. Foreigners (Section 3, Paragraph 1 of the law) shall have their bank notes exchanged at branches of the Czech National Bank and at selected branch offices of banks from 7 February through 9 February 1993.

(2) The exchange of bank notes for legal entities (Section 4, Paragraph 1 of the law) and private businessmen (Section 5 of the law) shall be handled in banks from 8 February through 9 February 1993. If technical operating conditions permit, the banks may conduct the exchange of bank notes for legal entities and private business interests even on 7 February 1993.

Section 3

As of the day the exchange of bank notes is initiated, the banks will restrict the withdrawal of cash from bank accounts and deposit accounts

a) where the withdrawal is being made by an authorized person or by a foreigner, for a period not to exceed seven working days;

b) where the withdrawal involves amounts in excess of Kcs10,000 and is being made by a legal entity, with the exception of a bank or an organizational unit of the Czech Postal Service or state enterprise or by a private businessman and where such withdrawal does not involve the withdrawal of resources for the payment of wages, until such times as this provision is rescinded.

Section 4

This regulation becomes effective on the day of its publication.

Law on Customs, Complete Updated Text

93CH0101A Prague SBIRKA ZAKONU in Czech 15 Oct 92 pp 2682-2706

[Text of Customs Law, signed by Kovac, published in Issue No 44, 1974, SBIRKA ZAKONU [Collection of Laws, Sb], dated 24 April 1974, and based on changes and supplements carried out by Law No. 117/1983 Sb, dated 27 October 1983, Law No. 5/1990 Sb, dated 5 December 1990, Law No. 143/1992 Sb, dated 13 March 1992, and Law No. 217/1992 Sb, dated 22 April 1992, and on constitutional laws dealing with the change of titles of the state and of the republics]

[Text] The Federal Assembly of the Czech and Slovak Federal Republic has agreed on the following law:

Section 1. Purpose of Customs Law

The purpose of the Customs Law is to adjust customs control over imports, exports, and transit shipments of goods and adjust customs statistics, set the rights and obligations of organs of the customs administration, as well as of private and legal entities during customs control, and to protect the interests of the Czech and Slovak Federal Republic with respect to imports, exports, and transit shipment of goods.

CHAPTER I

Organs of Customs Administration and Their Organization

Section 2. The Federal Ministry of Foreign Trade and the Central Customs Administration

1. The Federal Ministry of Foreign Trade carries out its activities in matters pertaining to customs, customs policy, and customs tariffs. A special component of the Federal Ministry of Foreign Trade for the execution of these activities is the Central Customs Administration.

2. The Central Customs Administration is headed by a director general. His deputy is the deputy director general of the Central Customs Administration.

3. If the director general of the Central Customs Administration is a citizen of the Czech Republic, the deputy director general of the Central Customs Administration shall be a citizen of the Slovak Republic, and vice versa.

4. The director general of the Central Customs Administration and his deputy are appointed and recalled by the minister of foreign trade of the Czech and Slovak Federal Republic.

Section 3. Customs Directorate

1. The Customs Directorate for the Czech Republic and the Customs Directorate for the Slovak Republic (hereinafter referred to only as "Customs Directorate") act as organs of the Central Customs Administration for the territories of the individual republics.

2. The Customs Directorate is headed by a director who is appointed and recalled by the minister of foreign trade of the Czech and Slovak Federal Republic.

Section 4. Customhouses

1. Customhouses are executive organs of the Customs Administration.

2. Customhouses are established and their jurisdictions determined by the federal minister of foreign trade, in agreement with appropriate organs of the state administration of the Czech and Slovak Federal Republic and of the individual republics. The Federal Ministry of Foreign Trade can establish customs branch offices as components of individual customhouses or, where appropriate, even other organizational components. The customs police function as an organizational component of customhouses.

3. Customhouses on the territory of the Czech Republic are directly subordinated to the Customs Directorate for the Czech Republic; customhouses on the territory of the Slovak Republic are directly subordinated to the Customs Directorate for the Slovak Republic.

4. Customhouses are headed by a director, who is appointed and recalled by the director of the appropriate Customs Directorate.

Section 5

1. Customhouses at state frontiers are border customhouses. Customhouses in ports, at airports, and at other locations are also considered to be border customhouses to the extent to which they conduct entry and exit customs control. The remaining customhouses are internal customs facilities.

2. The listing of customs facilities, customs branches, as well as territorial customs districts, is published by the Federal Ministry of Foreign Trade.

Activities Engaged in by the Central Customs Administration, by the Customs Directorates, and by Customhouses

Section 6

The Central Customs Administration:

a) directs and controls the activities of the Customs Directorates;

b) supports the role of the Federal Ministry of Foreign Trade in the area of customs matters, customs policy, and customs tariffs;

c) assures the collection of data and the processing of information regarding the export and import of goods;

d) supports tasks in the area of the fight against smuggling.

Section 7

The Customs Directorate:

a) directs and controls customhouses on the territory of the republic;

b) cooperates with state organs of the republic in the event the implementation of this law impacts on its activities.

Section 8

1. Customhouses:

a) conduct customs control in the case of imports, exports, and transit shipments of goods;

b) make decisions regarding the passage of imported, exported, or transit-shipped goods;

c) determine and collect customs duties;

d) handle customs violations;

e) make decisions regarding the assessment of fines against organizations for violating customs regulations;

f) within the customs border region, are authorized to demand that private entities prove their identities by a credible method;

g) exercise oversight and vigilance over the movement of persons, goods, and transport media within the customs border area;

h) regulate the movement of persons and transport media and assure the maintenance of public order in the customs area;

ch) search for goods that may have escaped customs control;

i) implement tasks to struggle against smuggling;

j) fulfill other tasks stipulated by this law.

2. To fulfill the tasks listed in Paragraph 1 above, members of the Customs Administration are authorized to demand that private individuals prove their identity by a credible method.

Section 8a

Organs of the Customs Administration fulfill additional tasks stipulated by the generally binding legal regulations.

Cooperation of Customs Administration Organs With Other Organs

Section 9

Organs of the Customs Administration:

a) communicate to state organs any cases involving the export and import of goods in which taxes, other payments, or surcharges have not been paid according to special regulations;

b) pass information on imported or exported goods that could be subject to notary fees to the state notary system.

Section 10

1. State organs:

a) shall render universal and effective aid to organs of the Customs Administration in determining goods that are imported, exported, or transit shipped in violation of this law;

b) shall tell organs of the Customs Administration of cases of violation of this law, to the extent to which they gain knowledge of these cases during the execution of their duties;

c) shall turn over to organs of the Customs Administration goods for purposes of conducting proceedings in accordance with this law.

2. Offices involved in criminal proceedings shall, upon conclusion of those criminal proceedings, turn over to the customs authorities goods that are subject to customs control.

Members of the Customs Administration

Section 11

1. Members of the Customs Administration are employees of customhouses, Customs Directorates, and the Central Customs Administration who, in accordance with their work agreements, fulfill the tasks stipulated by this law.

2. A Czechoslovak citizen may be a member of the Customs Administration provided:

a) he has an unblemished record;

b) fulfills health requirements;

c) fulfills the stipulated qualification requirements;

d) and renders the prescribed official oath.

Section 12

1. A member of the Customs Administration is obligated to render an oath, the text of which is as follows:

"I promise on my honor and conscience to be faithful to the Czech and Slovak Federal Republic.

"I promise that I shall observe the Constitution, the laws, and any other generally binding legal regulations. I shall execute my duties properly, conscientiously, and impartially, and in executing my authorities, I shall protect the interests of the Czech and Slovak Federal Republic as well as the legal rights of citizens; I shall take care to keep an unblemished record and maintain secrecy."

2. A member of the Customs Administration shall confirm the taking of this official oath with his signature.

Duties and Authorities of Members of the Customs Administration in Carrying Out Official Actions and Official Interventions

Section 12a

1. In carrying out official actions and official interventions, a member of the Customs Administration is obligated to safeguard the honor, seriousness, and dignity of private individuals, as well as his own, and must not permit them to suffer unjustified losses resulting from this activity and must ensure that any possible incursion into their rights and freedoms does not exceed the measure necessary for the achievement of the purpose pursued by the official action or the official intervention.

2. An official action is understood to be an action by a member of the Customs Administration in executing customs control.

3. An official intervention is understood to be a measure adopted by a member of the Customs Administration within the framework of legal authorizations aimed against a private individual who is violating the law and other generally binding legal regulations, by a method listed in Sections 12h, Paragraph 1, and Sections 14a through 14h.

4. In taking an official action or making an official intervention that impacts on the rights or freedoms of a private individual, a member of the Customs Administration is obligated to inform that person, to the extent to which circumstances so permit, of their rights; in the opposite case, he shall inform such individuals without undue delay.

Section 12b

A member of the Customs Administration is not obligated to engage in an official intervention if:

a) he has not been specially educated or trained for such purposes and the nature of the official intervention would require such specialized education or training, or

b) the duty to fulfill another task, the fulfillment of which would obviously result in more serious consequences than the failure to execute an official intervention, would prevent the carrying out of an official intervention.

Section 12c

1. In carrying out an official intervention, the member of the Customs Administration is obligated to make use of an appropriate challenge, to the extent to which the nature and circumstances of the case so permit.

2. To the extent to which the nature of the official intervention so requires, the member of the Customs Administration shall precede his challenge with the words "In the name of the law!"

3. Everyone is obligated to heed the challenge of a member of the Customs Administration in the execution of an intervention.

Section 12d

1. In the execution of his authorities, a member of the Customs Administration is obligated to identify himself as a member of the Customs Administration, to the extent to which the nature and circumstances of the official action or the official intervention so permit.

2. A member of the Customs Administration documents his membership in the Customs Administration by wearing the official uniform that bears an identification number when he is on duty, or by showing his official credentials as a member of the Customs Administration or by orally stating "Customs Administration."

3. A member of the Customs Administration shall identify himself by orally proclaiming that he belongs to the "Customs Administration" only in rare cases, where the circumstances of an official intervention prevent him from demonstrating his membership through wearing his uniform or through showing his official identification as a member of the Customs Administration. A member of the Customs Administration shall identify himself by his uniform or by his official identification as a member of the Customs Administration immediately, as soon as the circumstances of the official intervention so permit.

Section 12e

A circumstance that does not permit the informing of an individual of his rights in accordance with Section 12a, Paragraph 4, or that does not permit the use of the challenge described in Section 12c, Paragraph 1, or that does not permit the member of the Customs Administration to identify himself as such in accordance with Section 12d, Paragraph 1, is particularly an immediate assault upon the member of the Customs Administration and an immediate threat to the life or health of another individual.

Section 12f. The Right To Demand an Explanation

1. A member of the Customs Administration is entitled to demand a necessary explanation from anyone who is able to contribute to clarifying the facts that are important for uncovering a criminal action or a violation having to do with the import, export, or transit shipment of goods and their perpetrators and, in case of need, the member of the Customs Administration is entitled to challenge that individual to appear at the customhouse within a stipulated time limit for purposes of writing up a statement regarding the provision of an explanation.

2. Everyone is obligated to heed the challenge or the requirement outlined in Paragraph 1 above.

3. An explanation can be denied only by an individual who, by so doing, would expose himself, his direct relatives, his siblings, his adopter, his adoptees, his spouse or companion, or any other private individual enjoying family status or similar status, whose loss he might justifiably perceive as his own loss, to the danger of criminal prosecution or the danger of being prosecuted for a misdemeanor or by a person who might, by providing clarification, violate an obligation of secrecy imposed by law or recognized on the basis of honor, unless that person is relieved of that duty by the appropriate organ or by the individual in whose interest the secrecy obligation has been undertaken.

4. The member of the Customs Administration is obligated to inform a private individual of the opportunity to refuse to provide a clarification according to Paragraph 3 above and to communicate the fundamental data regarding the subject of the elucidation being demanded.

5. Anyone who responds to the challenge to report to the customhouse is entitled to be compensated for any necessary expenditures and to compensation for missed earnings (hereinafter referred to only as "compensation"). The compensation is provided by the customhouse.

6. The entitlement to compensation according to Paragraph 5 above becomes extinguished if the authorized individual does not assert it within three days from the day of responding to the challenge in accordance with Paragraph 1 above; the individual in question must be so informed.

7. If a private individual fails to respond to the challenge as outlined in Paragraph 1 above without having an adequate excuse or without serious reasons, that individual can be brought to the customhouse for purposes of compiling a statement regarding the provision of an explanation.

8. The protocol regarding the provision of an explanation must be compiled once the individual has been

brought in; after the protocol has been compiled, the member of the Customs Administration shall release the individual in question.

9. The member of the Customs Administration shall make an official notation regarding the fact that the individual in question was brought to the customhouse.

Section 12g. The Authority To Demand Identification

1. Verification of identity means the verification of the first name and surname, the date of birth, and the place of permanent residence, and possibly the location of temporary sojourn[1] of a private individual.

2. A member of the Customs Administration is authorized to demand that the following individuals identify themselves:

a) a person who is suspected of committing a crime or a misdemeanor or who is suspected of committing a crime or misdemeanor in conjunction with the import, export, or transit shipment of goods, or

b) a person of whom an explanation is demanded in accordance with Section 12f, Paragraph 1, above, or

c) a person who is found to be in the customs border sector. Such a person is obligated to comply with the challenge.

3. After determining the identity of the individual listed in Paragraph 2, Letter c), above, the member of the Customs Administration shall immediately release that individual, provided that the individual is not wanted or missing. In the event the individual is wanted, on the basis of well-founded suspicion, for having committed a criminal act, the customs official shall immediately hand over such an individual to the police authorities of the Czech Republic or the police corps of the Slovak Republic (hereinafter referred to only as "police organs"). In the event the individual is listed as missing, the customs official shall notify the person who reported the individual missing and shall possibly hand over the individual to the appropriate organ or to a legal representative.

4. If the individual listed in Paragraph 2 above declines to prove his identity or cannot do so even following the provision of the necessary collaboration in helping him to identify himself, the member of the Customs Administration is authorized to bring such an individual to the customhouse for purposes of implementing official actions to determine that individual's identity or to clarify matters.

5. In the event the member of the Customs Administration fails to determine the identity of the individual who is brought in in accordance with Paragraph 4 above within 12 hours of the arrest, and if he is unable to do so even on the basis of data found in population records, and if the suspicion exists that the arrested individual is providing erroneous data regarding his person, the member of the Customs Administration shall hand over the individual to the nearest police organ.

6. The member of the Customs Administration shall make an official entry regarding the arrest.

Section 12h. Authorization To Confiscate a Weapon

1. A member of the Customs Administration is entitled to determine whether the arrested individual is carrying a weapon[2] with which he might threaten his own life or health or the life or health of another individual, and to confiscate it.

2. Upon releasing the arrested individual, the member of the Customs Administration is obligated to return the weapon confiscated in accordance with Paragraph 1 above to the individual, in return for a signature. In the event legal reasons prevent the return of such a weapon, the member of the Customs Administration shall issue a receipt to the arrested individual regarding confiscation of the weapon.

Section 12i. Authorization To Restrict the Free Movement of an Individual Who Is Being Violent

1. A member of the Customs Administration may, following a futile exhortation for an individual who is acting violently against him or against another or who is damaging property to cease and desist from such actions, restrict the possibility of free movement for that individual.

2. The restriction of free movement may last only until the private individual has stopped his violent behavior or until he has been handed over to the nearest police organ, but may not exceed two hours; the individual in question must be given the opportunity to sit down and possibly to take care of his hygienic requirements.

3. The member of the Customs Administration shall compile an official entry regarding the reasons for using this authorization.

Section 12j. Authorization To Prohibit Entry to Certain Locations

A member of the Customs Administration is authorized to order everyone to stay away from certain locations for an essentially necessary period of time or not to be present at such locations if this is required in support of implementing customs control.

Section 13

1. Rescinded.

2. The Federal Ministry of Foreign Trade shall decide on the type of official uniform to be worn by members of the Customs Administration and the way it is to be worn.

3. The Federal Ministry of Foreign Trade, in agreement with the Ministries of Health of the Czech Republic and the Slovak Republic, shall adjust, by legal regulation, the health prerequisites for members of the Customs Administration and its organization and the carrying out of health services within the Customs Administration.

The Use of Force and Weapons by Members of the Customs Administration

Section 14. Force

1. The use of force is intended to achieve the purpose pursued as a result of an official intervention; only as much force is used as is absolutely necessary to overcome resistance on the part of an individual who is engaging in an illegal action. The decision as to what type of force to use is made by the member of the Customs Administration according to the specific situation in such a way as not to cause the individual against whom the intervention is directed any loss that is obviously disproportionate with regard to the nature and danger of the illegal action involved.

2. Prior to using any force, the member of the Customs Administration is obligated to exhort the individual against whom he is taking action to cease and desist from his illegal actions and warn him that one or another type of force will be used. The customs official may omit the challenge and warning only in the event he is himself attacked or if the life or health of another individual is in clear and present danger and the matter cannot stand to be deferred.

3. The following are the various means of force:

a) grips, holds, blows, and self-defense kicks;

b) tear gas;

c) truncheon;

d) handcuffs;

e) service canine;

f) technical and other means to prevent the departure of a vehicle and to compel the vehicle to come to a halt by force;

g) a blow with the firearm;

h) threat of an aimed firearm;

i) a warning shot fired into the air.

Section 14a. Use of Grips, Holds, Blows, and Self-Defense Kicks, Tear Gas Devices, and the Truncheon

1. A member of the Customs Administration is authorized to use grips, holds, blows, and self-defense kicks, tear-gas devices, and the truncheon to:

a) ensure his own security or the security of another individual against an illegal assault, if a futile exhortation to stop the assault has failed, if there is the immediate danger of an assault, if the assault persists or is likely to continue in accordance with all indications;

b) prevent a riot, a fight, the physical assault on individuals, or the deliberate damaging of property;

c) bring in or arrest an individual who is offering active resistance;

d) prevent the violent entry of unauthorized individuals to protected facilities of the Customs Administration or to locations to which entrance is prohibited.

2. Self-defense grips and holds that do not threaten the health or life of an individual may be used by a member of the Customs Administration to bring in an individual who is offering passive resistance.

Section 14b. Use of Handcuffs

A member of the Customs Administration is entitled to use handcuffs to:

a) fetter an arrested individual who is offering active resistance or who is assaulting another individual or a member of the Customs Administration or who is damaging property, despite a futile exhortation to cease such activities, or if there is the danger that the individual may attempt to flee;

b) mutually attach two or more arrested individuals under conditions listed in Letter a) above;

c) conduct official actions involving arrested individuals if they are violent toward the member of the Customs Administration or toward another individual or if they are destroying property.

Section 14c. Use of the Service Canine

1. A member of the Customs Administration is authorized to make use of a service canine to:

a) ensure his own safety or the safety of another person if, following a futile exhortation, the assault on himself or another person is not halted, if there is clear and present danger that an assault will take place, that an assault persists or will continue, given all indications;

b) prevent a riot, a fight, a physical assault upon individuals, or the deliberate damaging of property;

c) prevent the violent entrance of unauthorized individuals into protected facilities of the Customs Administration or to locations to which entrance is prohibited;

d) pursue an individual who has failed to halt in the vicinity of the state border following a futile exhortation to do so, an individual who is attempting to escape and cannot be halted by any other means;

e) pursue an individual who is on the run, if that individual is to be arrested;

f) compel an individual who is hiding to leave his hiding place, if that person is to be arrested.

2. A member of the Customs Administration uses a service canine with a muzzle. In the event the nature and intensity of the assault or possibly the overcoming of resistance offered by a private individual so requires, he may use a service canine even without a muzzle.

Section 14d. Use of Technical and Other Means To Prevent the Departure of a Vehicle and To Compel the Vehicle To Come to a Halt by Force

1. A member of the Customs Administration is authorized to use technical and other means to prevent the

departure of a vehicle in cases where a vehicle driver is refusing to subject himself to the official actions of the member of the Customs Administration, even following a repeated exhortation, and where his actions make it clear that he intends to depart with his vehicle.

2. A member of the Customs Administration is authorized to make use of an arresting cable within the customs border sector as well as other devices to effect the forceful halting of a vehicle, the driver of which has failed to halt despite repeated challenges or upon the signal given according to special regulations,[3] if:

a) there is the justified suspicion that he will attempt to violently cross the state border;

b) there is the justified suspicion that the driver is transporting the perpetrators of a particularly serious deliberate criminal act[4] or that he is transporting items stemming from this criminal activity.

3. Other devices according to Paragraphs 1 and 2 are considered to be particularly the service vehicle, a cart, structural mechanisms, and other obstacles.

Section 14e. Use of a Blow With a Firearm

A member of the Customs Administration is authorized to use his firearm to administer a blow in self-defense, generally in fighting with an attacker and if he finds himself at close quarters with an assailant.

Section 14f. Use of the Threat of an Aimed Firearm

A member of the Customs Administration is authorized to make use of the threat presented by an aimed firearm to:

a) ensure his own safety or the safety of another individual;

b) prevent the violent entrance of unauthorized individuals to protected facilities of the Customs Administration or to locations to which entrance is prohibited;

c) overcome resistance aimed at frustrating his official interventions.

Section 14g. Use of a Warning Shot

A member of the Customs Administration is authorized to make use of a warning shot into the air only in cases in which he is authorized to use a firearm.

Section 14h. Use of Firearms

1. A member of the Customs Administration is authorized to carry a service weapon in the fulfillment of his official duties according to this law, as well as in fulfilling the official duties outlined in special regulations.[5]

2. A member of the Customs Administration who is authorized to carry a weapon according to Paragraph 1 above is authorized to use that weapon only in the following cases:

a) to ward off a directly threatening or persisting assault against his person or an assault upon the life or health of another;

b) if a dangerous perpetrator, against whom the customs official is making an intervention, fails to surrender when challenged or is reluctant to leave his hiding place;

c) to prevent the flight of an individual who is urgently suspected of committing a particularly serious deliberate crime and whom he cannot arrest by any other means;

d) to force a transport medium, whose driver has failed to stop when challenged or upon the signal given according to special regulations,[3] to come to a halt in the customs border sector and if there is no other method for bringing this vehicle to a halt;

e) to ward off a dangerous attack that threatens a protected facility of the Customs Administration, following a futile exhortation to cease and desist from such an attack;

f) to render an animal that is posing an immediate threat to the life or health of an individual harmless.

3. According to Paragraph 1 above, a weapon is understood to be a firearm, a thrusting weapon, an explosive, special explosive devices, and special charges.

4. The use of weapons by members of the Customs Administration in cases listed in Paragraphs 2, Letters a) through e), is permissible only in the event the use of other means of force would be clearly ineffective.

5. Before using a weapon, the member of the Customs Administration is obligated to exhort the individual against whom he is intervening to cease and desist from the illegal activity involved with a warning that a weapon will be used. Before using a firearm, the member of the Customs Administration is obligated to fire a warning shot into the air. He may forego the warning and a warning shot only in case there is the clear and immediate danger of a threat to his life or health or if there is a clear and present danger to the life or health of another and the entire matter at hand cannot be deferred.

6. In using a weapon, the member of the Customs Administration is obligated to exercise all necessary care, particularly so as not to threaten the life or health of another individual and to spare the life of the individual against whom the intervention is directed to the maximum extent possible.

7. A member of the Customs Administration may make use of a weapon only within the customs border sector or in the customs area of a border customhouse. Outside of this territory, he may use a weapon only in the event he himself is threatened.

Duties of a Member of a Customs Administration Making Use of Force and a Weapon

Section 14i

1. In the event a member of the Customs Administration determines that the use of force has resulted in wounding an individual, he is obligated to render first aid to the individual who is wounded and to assure that medical attention is provided, as soon as circumstances so permit.

2. Following each use of a weapon resulting in the wounding of an individual, the member of the Customs Administration is obligated to immediately render first aid and to assure the availability of medical attention, as soon as circumstances so permit. He is further obligated to take all unpostponable actions designed to correctly clarify the justification for using a weapon.

Section 14j

1. A member of the Customs Administration is obligated to report to his superior on every official intervention without undue delay in which use was made of force or of a weapon.

2. The use of force or of a weapon must be reported by the member of the Customs Administration to his superior in written form, listing the reason, course, and results of the action.

3. In the event there are any doubts regarding the justification or the appropriateness of using force or a weapon or if their use has resulted in a death, in a detriment to health, or in damage to property, the superior is obligated to determine whether the use of force or a weapon was made in harmony with the law. He shall compile an official report covering the results of this determination.

Section 14k. Special Restrictions

A member of the Customs Administration must not, in engaging in an official intervention against an obviously pregnant woman or against a woman who states she is pregnant, against an individual of advanced age, against an individual with an obvious physical handicap or illness, and against an individual who is obviously younger than 15 years of age, make use of a blow or a self-defense kick, of tear gas, the truncheon, handcuffs, a service canine, a blow administered with a firearm, and a firearm in general, with the exception of cases in which an assault by these individuals poses an immediate threat to the life and health of the member of the Customs Administration or the life and health of another individual or if there is a danger of major damage to property and if the danger cannot be thwarted in any other manner.

Section 15. Secrecy Obligation

1. Members of the Customs Administration and other employees of the Customs Administration are obligated to maintain secrecy with regard to matters that come to their attention in the fulfillment of their work obligations.

2. The Federal Ministry of Foreign Trade, the Customs Directorate, or customhouses may relieve a member of the Customs Administration or another employee of the Customs Administration of the obligation listed in Paragraph 1 above.

CHAPTER II

Customs Territory, Customs Border Region, Free Customs Zone, and Free Customs Warehouse

Customs Territory and Customs Border Region

Section 16

The territory of the Czech and Slovak Federal Republic is a unified customs territory.

Section 17

1. The customs border region is a territory strip extending a distance of 15 km from the state border. The customs border region does not incorporate communities through which the line delimiting the border region runs, nor communities within the customs border region that are connected with customs crossing points of railroad lines or highways.

2. The remainder of the territory, which is not part of the customs border region, is considered to be the inland customs area.

3. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of the Interior, shall stipulate by announcement the details pertaining to outlining the customs border region.

Free Customs Zone and Free Customs Warehouse

Section 18

1. Free customs zones and free customs warehouses make up areas and structures in part of the customs territory in which goods located there are considered from the standpoint of customs duties, taxes, and fees collected in conjunction with the import and export of goods as though the goods were located on customs territory that is separated from the remainder of the customs territory of the state and where:

a) foreign goods are not subject to import duties nor to legal regulations involved in the conduct of commercial policy;

b) for Czechoslovak goods (hereinafter referred to only as "Czechoslovak goods"), special regulations stipulate advantages resulting from the placement of these goods in a free customs zone or a free customs warehouse, advantages that apply to the goods upon their export into free circulation abroad.

2. Approval to establish a free customs zone or a free customs warehouse is granted, at the request of the establisher, by the Federal Ministry of Foreign Trade, following negotiations with the Federal Ministry of Finance, with the appropriate central organs of state administration of the various republics, and the appropriate organs of local self-administration.

Section 19

1. Free customs zones and free customs warehouses must be segregated from the remainder of the customs territory by a fence that is at least three meters high or must be otherwise separated by a method approved by the

customhouse so as to make it possible to control entry into and exit from these free customs zones or free customs warehouses and locations for entering them and exiting from them must be designated.

2. Any kind of construction in the free customs zone may be undertaken only with the prior approval of the customhouse.

Section 19a

1. The perimeter and the entrance and exit locations of a free customs zone and a free customs warehouse are under the oversight of the customhouse.

2. Individuals and transport media entering a free customs zone or a free customs warehouse and exiting from such locations may be subjected to customs inspection.

3. Access to a free customs zone or a free customs warehouse may be denied individuals who fail to provide a guarantee that they will adhere to the rules stipulated for free customs zones and free customs warehouses because they have been repeatedly punished for violating customs regulations.

4. The customhouse is authorized to check on goods entering the free customs zone or the free customs warehouse, and goods leaving these facilities or remaining in them. To facilitate this control, a copy of the bills of lading accompanying the entering or exiting goods will be turned over to the customhouse or these documents will be subject to safekeeping for such purposes for the requirements of the customhouse by an individual or a legal entity designated by the customhouse.

Section 19b

1. A free customs zone or a free customs warehouse may be used to house Czechoslovak goods as well as foreign goods without regard to quantity, origin, place of import, or place of destination, including goods subject to prohibition and restriction, provided such goods are not prohibited and restricted for veterinary or herbal medicine reasons, for reasons of morality or public order, public safety, health protection, environmental protection, for protection of museum and gallery value items, cultural items and national cultural memorabilia having artistic, historical, or archeological value, and items subject to patent protection, trademark protection, and copyright protection.

2. Dangerous goods and goods that can damage other goods or goods requiring special facilities may be located only in areas specially selected for such purposes.

Section 19c

1. Goods entering a free customs zone or a free customs warehouse need not be submitted for inspection to the customhouse and need not be the subject of a proposal for a customs proceeding. This provision leaves untouched the provisions of Section 19a, Paragraph 4.

2. However, goods must be submitted to the customhouse and will be subjected to prescribed customs formalities if:

a) they have been released to recorded circulation in the domestic area, a circulation that was terminated by locating the goods in a free customs zone or a free customs warehouse; if the appropriate customs regime makes it possible for the goods not to be submitted, then a submission will not be required;

b) the goods are located within a free customs zone or a free customs warehouse on the basis of a decision that the import duty will be refunded;

c) a request has been submitted that a deposit be paid regarding the export compensation for goods subject to the legal regulation implementing measures of market regulation.

3. Upon the request of the authorized individual or a legal entity, the customhouse will certify that the goods located in a free customs zone or a free customs warehouse are either of Czechoslovak origin or are foreign goods.

Section 19d

1. The time for locating goods in a free customs zone or a free customs warehouse is not limited.

2. The Federal Ministry of Foreign Trade may, by announcement, restrict this time with respect to Czechoslovak goods subject to the legal regulation that implements measures of market regulation.

Section 19e

1. Any kind of industrial, commercial, or service activity within a free customs zone or a free customs warehouse is permitted, under conditions stipulated by this law. The provisions of generally binding legal regulations governing environmental protection are left untouched by this provision.

2. In view of the nature of the goods and the necessity for customs inspection, the appropriate customhouse may prohibit or restrict certain activities listed in Paragraph 1 above within a free customs zone or a free customs warehouse.

3. The customhouse may forbid individuals or legal entities who have repeatedly violated the provisions of this law from continuing their business activities within the free customs zone or the free customs warehouse.

Section 19f

1. Foreign goods located in a free customs zone or a free customs warehouse can be handled as follows for the duration of the time the goods are located in such facilities:

a) the goods can be released to free circulation in the domestic area under conditions stipulated for releasing goods into domestic free circulation and under conditions listed in Section 19k;

b) the goods can be used, without permission, as equivalent goods in terms of goods that are to be released into registered circulation in the domestic area for purposes of active beneficiation contacts;

c) the goods can be utilized in recorded circulation in the domestic area for purposes of active beneficiation under conditions stipulated for such circulation;

d) the goods can be utilized in recorded circulation in the domestic area for purposes of temporary use under conditions stipulated for this type of circulation;

e) an individual or a legal entity that is so entitled can forfeit the goods to the benefit of the state;

f) the goods can be destroyed, provided that the individual who is entitled to do so makes all information that the customhouse considers to be necessary available to the customhouse.

2. If the goods are used in the regime identified in Paragraph 1, Letters c) or d), methods of control applicable for these purposes of recorded circulation may be used.

Section 19g

Czechoslovak goods that are subject to the provisions of Section 18, Paragraph 1, Letter b), and that are subject to the legal regulation that implements measures of market regulation may be subjected only to such forms of manipulation that are stipulated for such goods by this law. These manipulations may be conducted without permission.

Section 19h

Foreign goods and Czechoslovak goods subjected to the provisions of Section 18, Paragraph 1, Letter b), may not be consumed or used for any other purposes than those listed in Sections 19f and 19g within the free customs zone or the free customs warehouse.

Section 19i

1. An individual or a legal entity engaged in activities listed under Section 19e, Paragraph 1, within the free customs zone or the free customs warehouse is obligated to keep records on goods entering or leaving the free customs zone or the free customs warehouse or goods remaining in these facilities, by a method stipulated by the customhouse, the basis for which are accounting records to be maintained in accordance with special regulations that make it possible to identify the goods and acquire an overview regarding their movement. The goods must be recorded in these records as of the moment of delivery into the area operated by these individuals or legal entities. The records must be made available to the customhouse to facilitate control as the customhouse considers it necessary.

2. In case the goods are moved within a free customs zone, the documents pertaining to this move must be kept for the needs of the organs of the Customs Administration. Short-term warehousing of goods, carried out in conjunction with relocating goods, is considered to be an indivisible part of relocation.

Section 19j

1. If special regulations do not specify otherwise, goods leaving a free customs zone or a free customs warehouse may be:

a) exported into free circulation abroad or reexported abroad, or

b) delivered to another portion of the territory of the Czech and Slovak Federal Republic.

2. Provisions of Sections 24, 58 through 74 pertain to goods delivered to other parts of the territory of the Czech and Slovak Federal Republic.

Section 19k

1. If the price actually paid or the price that is supposed to be paid for foreign goods includes the costs of warehousing or maintaining these goods in the free customs zone or the free customs warehouse, these amounts are not considered part of the customs value of the goods, provided they are separated from the price actually paid or the price that is supposed to be paid for the goods in question.

2. If, on the basis of a customhouse permit, the goods within a free customs zone or a free customs warehouse have been subjected to customary manipulations necessary to ensure the maintenance of the goods or to improve the packaging or the sales quality of the goods in question or manipulations necessary to make adjustments for transport purposes, customs duties will be assessed, at the request of the importer, in accordance with the nature of the goods and their customs value ascribed to these goods prior to the execution of these manipulations.

Section 19l

1. For Czechoslovak goods identified in Section 18, Paragraph 1, Letter b), which are subject to the legal regulation that implements market-regulating measures and that are located within a free customs zone or a free customs warehouse, special regulations will prescribe methods for handling or utilizing such goods that, because the goods are located in a free customs zone or a free customs warehouse, provide advantages that are customarily connected with export of such goods.

2. In the event the goods listed in Paragraph 1 above have been returned to another portion of the territory of the Czech and Slovak Federal Republic or if the time limit stipulated in Section 19d, Paragraph 2, has expired without the filing of a request that a method of handling the goods or utilizing the goods has been assigned as mentioned in Paragraph 1 above, the customhouse will take the necessary measures that are stipulated in special regulations and that cover the possible failure to adhere to the appropriate method of handling or utilizing the goods in question.

Section 19m

1. In the event the goods have been delivered or returned to another portion of the territory of the Czech and Slovak Federal Republic or if the goods have been released into restricted circulation in the domestic area, it is possible to make use of the certification mentioned in Section 19c, Paragraph 3, to prove whether the goods are Czechoslovak goods or foreign goods.

2. In the event no certificate or other records are available to indicate whether the goods are of Czechoslovak origin or foreign origin, the goods are considered to be:

a) Czechoslovak goods for purposes of applying export customs duties and export licenses or export measures involved in commercial policy;

b) foreign goods in other cases.

Section 19n

The customhouse shall check to see that, in the case of exports from a free customs zone or a free customs warehouse, the provisions of generally binding legal regulations regulating the export of goods into free circulation abroad are adhered to.

CHAPTER III

Customs Control

Part One
General Provisions

Section 20

Customs control constitutes the aggregate of tasks and measures designed to assure the observation of laws and other generally binding legal regulations, the execution of which falls to the organs of the Customs Administration.

Section 21

All imported, exported, and transit-shipped goods are subject to customs control.

Goods

Section 22

1. For purposes of this law, goods are defined as any material assets, with the exception of items and other values, the import and export of which is controlled by regulations covering the foreign exchange economy,[6] and electric energy.

2. Of the items that are controlled by regulations covering the foreign exchange economy with respect to their import and export, the importing, exporting, and transit shipment of gold for industrial purposes is subject to customs control.

3. For purposes of this law, Czechoslovak goods are understood to be:

a) goods that have been wholly acquired or produced on the territory of the Czech and Slovak Federal Republic;

b) goods imported to the Czech and Slovak Federal Republic and released into free circulation in the domestic area;

c) goods acquired or produced on the territory of the Czech and Slovak Federal Republic, either entirely from goods listed under Letter b) above or from goods listed under Letters a) and b) above.

4. For purposes of this law, foreign goods are understood to be other goods than those listed in Paragraph 3 above. Czechoslovak goods released into free circulation abroad become foreign goods.

5. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finance, shall announce what is understood to be gold for industrial purposes.

Section 23

(Omitted)

Section 24

Goods are subject to customs control:

a) when imported—from the time of the entry of the goods upon the territory of the Czech and Slovak Federal Republic through the time a customhouse permits the goods to enter upon free circulation within the country or until the goods are reexported abroad following their blocked circulation within the country;

b) when exported—from the time the proposal for letting the goods pass is submitted to a customhouse until the time the goods cross the state border or as long as the goods, which were permitted to enter blocked circulation abroad, are not reimported to this country or as long as a customhouse does not permit the goods to enter free circulation abroad;

c) when transit shipped—from the time the goods enter the territory of the Czech and Slovak Federal Republic until they pass to a foreign country.

Part Two
Execution of Customs Control

Customs Inspection

Section 25

1. Customs control can be implemented in the form of customs inspection of the goods involved by checking the goods and documents, by checking shipping manifests and accompanying lists, and by other appropriate methods stipulated by proclamation by the Federal Ministry of Foreign Trade.

2. The Federal Ministry of Foreign Trade shall establish, by proclamation, the details covering the execution of customs control.

Section 26

1. Customs inspection shall determine the type, quantity, and other facts pertaining to the goods involved necessary to judge whether the import, export, or transit shipment of the goods is in accordance with this law.

2. In executing customs inspection, constitutional and other legal regulations regarding the protection of personal freedom and the confidentiality of the mails must be observed.

Section 27

1. Within the framework of customs inspection, members of the Customs Administration are empowered to perform body searches in the event there is cause to suspect that an individual may be concealing goods on his or her person while crossing the state border.

2. A body search may not be undertaken until such times as the demand by members of the Customs Administration that the suspicious person hand over the concealed goods has produced no results.

Section 28

The customs inspection of mail shipments is conducted only in the event there is a well-founded suspicion that the mail shipment contains not only written communications, but also goods.

Section 29. Exemption From Customs Inspection

1. The following are not subject to customs inspection:

a) goods imported and exported as a result of travel from abroad or to a foreign country by representatives of the Czech and Slovak Federal Republic, as well as by representatives to the Czech Republic and the Slovak Republic;

b) goods imported, exported, or transit shipped on the occasion of travel from abroad or travel to a foreign country by representatives of other nations and by other individuals that enjoy the advantages and immunities stipulated by international agreements.

2. The following are also not subject to customs inspection:

a) diplomatic mail of the Federal Ministry of Foreign Affairs and of Czechoslovak representative offices and diplomatic mail exempt from customs inspection in accordance with international treaties;

b) goods that are individually exempt from inspection by the Federal Ministry of Foreign Trade.

3. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Foreign Affairs, shall stipulate, by proclamation, the detailed outline of the circle of individuals and cases in which goods are exempt from customs inspection.

Section 30. Direct Supervision and Customs Bonding

1. Goods subject to customs control can be placed either under the direct supervision of members of the Customs Administration or placed into customs bond.

2. A customs bond is understood to be the securing of goods in transport media, containers, packages, and rooms by the affixing of wax or wire seals, markings, or other means to make it impossible to remove goods from them or to insert goods into them without showing traces of the fact that the secured room has been broken into or that the customs closure has been damaged.

Section 30a. Customs Statistics

Organs of the Customs Administration shall ensure the collection of data and the processing of information regarding exports and imports of goods on the basis of documents that have been prescribed for use in customs proceedings. The method of keeping customs statistics will be determined by the Federal Ministry of Foreign Trade, in agreement with the Federal Statistical Office, by proclamation.

Part Three
Authorities of Members of the Customs Administration in Executing Customs Control

Section 31

1. Members of the Customs Administration must be given access to goods subject to customs control; at the same time, constitutional and other legal regulations regarding the inviolability of personal residences must be observed. Members of the Customs Administration may look into documents pertaining to such goods for a period of three years from the day the goods were released, make copies of such documents, require necessary explanations, as well as create appropriate documentation.

2. Legal entities and private individuals that become subject to customs control are obligated to tolerate those actions that are essential to the execution of such control.

3. Legal entities and private individuals are obligated to render all essential cooperation to members of the Customs Administration in the execution of customs control.

4. Customs control must not be humiliating in terms of personal dignity.

Section 32

To the extent to which an international agreement, which is binding upon the Czech and Slovak Federal Republic, does not state otherwise, members of the Customs Administration may stop individuals and transport media, conduct customs examination of baggage, the transport media involved, their cargoes, and shipping and accompanying documents only within the customs border region.

CHAPTER IV

Transport of Goods Across the State Border

Section 33. Reporting of Goods at the State Border

Individuals and organizations engaged in transporting goods across the state border are obligated to report the goods in question to the border customhouse and to present the goods together with documents pertaining to their import, export, and transit shipment.

Section 34. Customs Passages and Customs Crossings

1. The transport of goods across state borders may only be accomplished along customs passages and customs crossing points.

2. Customs passages are designated as sectors of railroad lines, highways, and waterways leading from the customs crossing point to the border customhouse, and in the case of air transport, air routes between state borders and the customs airfield.

3. Customs passages shall be stipulated by the Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Transportation and the Federal Ministry of the Interior.

4. The transport of goods along a customs passage must be accomplished without delay, without altering the cargo, and without deviating from the customs passage.

5. A customs crossing point is the location set aside for the crossing of individuals and for the transport of goods across the state border.

6. The Federal Ministry of Foreign Trade may permit the transport of goods across the state border outside of customs crossing points in individual cases and can stipulate the cases in which such a permission may be granted by the border customhouse.

7. The nearest border customhouse may permit the transport of goods to and from a customs crossing point along routes other than customs passages.

Section 35. Transport Media

1. In transporting goods from abroad or to a foreign country, only such transport media that do not contain secret compartments or areas that are difficult to uncover may be used.

2. Closable areas of transport media intended for the transport of goods under customs seal must be provided with devices that facilitate the ready and effective attachment of customs seals.

3. Transport media must be so equipped that, after the attachment of customs seals, it is impossible to extract any goods from them or insert any goods into them without leaving behind visible traces of such actions.

Duties of Transport Organizations and the Postal Authorities

Section 36

1. Transport organizations and the postal authorities have the duty of making it possible for customhouses to execute customs control within transport media, within operating warehouses, and at other locations that house exported, imported, or transit-shipped merchandise.

2. The Federal Ministry of Foreign Trade, together with the Federal Ministry of Transportation and the Federal Ministry of Communications, shall issue a proclamation setting forth the details of the procedures to be observed by organizations during customs control of goods shipped by transport organizations and the postal authorities, as well as details regarding the equipment of installations intended for the transport or storage of goods subject to customs control, and rooms and areas required for the conduct of customs control.

Section 37

1. Customhouses shall agree with transport organizations and the postal authorities on the conditions for the execution of customs control in such a way as to not disrupt the operations of transport organizations and postal authorities to a greater extent than absolutely necessary.

2. Transport organizations shall, in agreement with the appropriate Customs Directorate, stipulate the necessary waiting time for transport media engaged in regular passenger and freight transport at the customs crossing point to facilitate the execution of customs control.

3. Customhouses are not responsible for damage caused by delaying the transport medium as a result of customs control.

Section 38

Customhouses shall control whether transport organizations and the postal authorities are fulfilling their duties according to this law and the regulations issued as a result of it during the transport of goods from abroad or to a foreign country.

CHAPTER V

Customs Duties

Part One
Customs Duties and Their Types

Section 39. Dutiable Goods

1. All imported goods with the exception of items that are expressly identified as duty-free goods are subject to import duties.

2. Exported goods are subject to export duties only to the extent that the customs tariff table specifically so states.

3. Goods that are specifically identified in international treaties as duty-free are not subject to customs duties.

Tariff Tables

Section 40

(Omitted)

Section 41

1. Customs tariff rates, the basis for assessing duties, and the customs rate tables are issued by the government of the export by decree.

2. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finance, shall establish, by proclamation, those cases in which a unified rate will be applied in assessing customs duties and their levels.

3. The statistical and classification units of the customs tariff table shall be established, by proclamation, by the

Federal Ministry of Foreign Trade, in agreement with the Federal Statistical Office.

Section 42. Decisions as to Classification of Goods

1. In the event of disputes regarding the nomenclature, the tariff classification of goods, such classification of goods shall be decided by the Federal Ministry of Foreign Trade, at the request of a participant in a customs proceeding.

2. The Federal Ministry of Foreign Trade shall, by proclamation, stipulate the procedure for submitting a proposal to decide on the nomenclature, the rate table classification of merchandise, as well as the effects stemming from the decision regarding these items.

Section 43. Contractual Customs Duties

1. Contractual customs duties are collected on merchandise in cases which are stipulated in international agreements regarding the mutual rendering of customs advantages.

2. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finance and the Federal Ministry of Foreign Affairs, may stipulate that contractual customs duties be collected even for goods originating in a country with which an agreement on the mutual rendition of customs advantages has not been concluded.

Section 44. Exemption From Customs Duties

1. Goods that are exempt from customs inspection upon import or export are exempt from customs duties, as are goods where such an exemption is required by the public interest.

2. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finance and the Federal Ministry of Foreign Affairs, shall stipulate, by proclamation, those cases where goods are exempt from customs duties, as well as the conditions according to which the goods were exempt from customs duties.

3. If a country does not exempt goods imported from the Czech and Slovak Federal Republic from customs duties commensurate with the extent stipulated by the proclamation of the Federal Ministry of Foreign Trade, then the Federal Ministry of Foreign Trade may limit or reject the exemption of customs duties on goods imported from that country.

Section 45. Retaliatory Customs Duties

The Government of the Czech and Slovak Federal Republic may, for reasons of economic reprisal, stipulate that, for a temporary period, imports of goods from countries that discriminate against the Czech and Slovak Federal Republic in economic relationships be charged a surcharge on top of the standard customs rates or, possibly, introduce special customs rates for goods that are not subject to customs duties according to the customs table.

Part Two
Entitlement of the State to Customs Duties

Section 46. Origin of the Entitlement of the State to Customs Duties

1. The entitlement of the state to customs duties originates at the moment a customhouse has accepted a proposal for a customs proceeding requesting that the goods be released to free circulation.

2. If the goods have been released to the circulation of record in this country for purposes of temporary utilization, the entitlement of the state to customs duties originates with the decision of the customs authorities that terminates the release of the goods into the circulation of record within the country for purposes of the goods being temporarily utilized.

3. In the event the goods, located within a free customs zone or a free customs warehouse, have been consumed or used in conflict with stipulated conditions, the entitlement of the state to customs duties originates at the moment the goods were illegally consumed or used for the first time.

4. In the event goods have escaped customs control, the entitlement of the state to customs duties originates at the moment the goods cross the state border.

5. In the event goods released into blocked circulation have been stolen or used in conflict with stipulated conditions, the entitlement of the state to customs duties originates at the moment these conditions were violated.

Section 47. Assessment of Customs Duties

1. Customs duties on goods subject to customs duties are assessed according to regulations valid at the time the customhouse accepts a proposal for a customs proceeding requesting the release of the goods into free circulation.

2. Customs duties on goods released into circulation of record abroad for purposes of processing, adjustment, or repair are assessed according to regulations valid at the moment the proposal for a customs proceeding is received, requesting the release of the goods into free circulation. The basis for the assessment of customs duties is the increased customs value, which is computed as the difference between the customs value of the goods at the time it is reimported and the customs value of the goods released into circulation of record abroad for purposes of processing, modification, or repair.

3. With respect to goods released into circulation of record within the country for purposes of temporary use, the amount of the customs duties charged for each fragmentary month in which these goods were in this type of circulation amounts to 3 percent of the customs duties that should be assessed if these goods were released into free circulation within the country at the moment of release of the goods into circulation of record within the country. The duties assessed in this manner may not exceed the duties assessed in the event the goods

are released into free circulation with the country at the moment of the release of the goods from circulation of record within the country.

4. In the event the goods were released from circulation of record within the country for purposes of temporary utilization into free circulation within the country, the amount of customs duties collected for these reasons is determined by the difference between the amount of customs duties that should be assessed if these goods were released into free circulation within the country at the moment of their release to circulation of record within the country and the duties assessed in accordance with Paragraph 3 above.

5. In the event goods located in a free customs zone or a free customs warehouse have been consumed or used in conflict with the stipulated conditions, customs duties are assessed in accordance with regulations valid at the moment the goods were illegally consumed or first utilized. If it is not possible to ascertain when the goods were illegally consumed or used for the first time, customs duties are assessed according to regulations valid at the moment the customs authorities have determined that the goods were illegally consumed or first utilized.

6. In the event goods have escaped customs control, customs duties are assessed in accordance with regulations valid at the moment the goods cross the state border. If it is not possible to ascertain when the goods crossed the state border, customs duties are assessed according to regulations valid at the moment the customs authorities have determined that the goods have escaped customs control.

7. In the event goods released to blocked circulation have been stolen or utilized in conflict with stipulated conditions, customs duties are assessed according to regulations valid at the moment these conditions were violated. If it is not possible to ascertain when a violation of the stipulated conditions occurred, customs duties are assessed in accordance with regulations valid at the moment the customs authorities determine that the stipulated conditions were violated.

8. In the event customs duties are assessed on goods in accordance with their value and in the event a participant in a customs proceeding fails to document this value or makes statements that do not reflect the actual price of the goods, a customhouse shall assess customs duties in accordance with the international treaty by which the Czech and Slovak Federal Republic is bound. The costs of this proceeding are to be borne by a participant in a customs proceeding.

9. The Federal Ministry of Foreign Trade, in agreement with the appropriate central organs, shall stipulate, by proclamation, the detailed adjustments pertaining to the assessment of customs duties, pertaining to the collection of customs duties on goods permitted to enter the circulation of record, as well as cases where the assessed duties may be collected by the postal authorities.

Section 48. Payment of Duties

Customs duties are payable within 30 days of the time a participant in a customs proceeding has been notified of the level of the assessed duty.

Section 49. Deferred Payments

1. A customhouse may permit the deferral of the payment of customs duties. Interest is paid on deferred payments of customs duties and on late payments.

2. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finance, shall stipulate, by proclamation, the level of interest chargeable for deferring customs payments and for late customs payments, as well as the conditions and time period permitted for the deferral of payments.

Section 50. Obligations To Pay Customs Duties

1. A participant in a customs proceeding, to whom goods subject to customs duties have been released, is obligated to pay customs duties.

2. A participant in a customs proceeding is obligated to make supplemental payments of customs duties at the level of duty concessions made, if, after the goods have been released to enter limited free circulation, he fails to fulfill the duties stipulated by a customhouse or in the event that customhouse, at his suggestion, rescinds the conditions according to which the goods were released to enter limited free circulation.

3. Customs duties shall be paid together with and the same as a participant in a customs proceeding by anyone who:

a) imports or exports goods in conflict with this law and participates in the unpermitted import or export of goods;

b) handles goods in conflict with this law;

c) acquires goods on which customs duties were not paid during their import or export.

4. Anyone who acquires goods from anyone else on which customs duties were not paid during import or export is obligated to pay customs duties only to the extent that he knew or had to know that the goods had escaped customs control or that the goods have been unjustifiably misappropriated.

Section 51. Customs Lien Law

1. Pending the payment of customs duties, imported, exported, or transit-shipped goods are subject to the customs lien law, to the extent to which they are in the possession of a customhouse, a transport organization, the postal authorities, or in the possession of the person obligated to pay customs duties. This does not apply to goods that are classified as national property.

2. The customs lien law pertaining to goods ends with the termination of the state entitlement to collect customs duties.

Section 52. Customs Duty Deposits

1. To make sure that imported, exported, or transit-shipped goods will not be taken away from customs control or that goods under customs control will not be handled in conflict with this law, a customhouse may require the deposit of a customs duty deposit.

2. A customhouse is entitled to require the deposit of a customs duty surety, in the case of imports, up to the level of the import duties plus 10 percent as well as the deposit of other taxes and payments collectible upon the import and export of goods up to the level of the customs duties or based on the price of the goods involved. In the case of goods the export of which is prohibited or restricted, a customs duty surety payment may be demanded and can be up to five times the actual level of the customs duties or the price of the goods involved.

3. In the event a participant in a customs proceeding fails to adhere to the duties stipulated in the customs proceeding, the deposited customs duty surety is used to pay the customs duties, to pay transport costs, warehousing costs, postal fees, fines assigned according to this law, and the costs of the proceeding. Any remainder of the deposited customs duty surety is then returned to a participant in the customs proceeding.

Section 53. Expiration of the State's Entitlement To Collect Customs Duties

The state's entitlement to customs duties expires:

a) upon their payment;

b) upon their being forgiven;

c) upon their being settled from the proceeds of the sale of the goods involved;

d) upon their being settled as a result of the deposited customs duty surety;

e) upon surrender of the goods to the state;

f) upon forfeiture of the goods to benefit the state;

g) upon confiscation of the goods;

h) when the state fails to enforce its rights.

Section 54. Forgiveness of Customs Duties and Reduction of Customs Duties

1. In the event payment of customs duties would lead to hardships, the customs duties must be completely or partially forgiven.

2. A customhouse shall make decisions regarding the forgiveness or reduction of customs duties.

3. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finance, shall stipulate, by proclamation, the details regarding forgiveness or reduction of customs duties.

Section 55. Failure To Enforce Rights

1. The customs duties (or any surcharges) may not be assessed or collected after the expiration of three years from the end of the calendar year in which an entitlement to collect customs duties came into being.

2. In the event goods escaped customs control or in the event goods were handled in conflict with the conditions under which they were released, it is neither possible to assess nor collect customs duties (surcharges) after the expiration of five years from the end of the calendar year in which the entitlement to collect customs duties originated.

3. The end of the calendar year in which a participant in a customs proceeding was notified of an action designed to collect customs duties (surcharges) or in which he was permitted to defer the payment of customs duties (surcharges) marks the beginning of a new three-year term. However, customs duties (surcharges) may neither be assessed nor collected if 10 years have passed since the end of the calendar year in which the entitlement to collect customs duties came into being.

4. An action designed to collect customs duties (surcharges) is also a written reminder to pay customs duties, delivered to a participant.

Refunding of Customs Duties

Section 56

1. A customhouse shall refund customs duties in the event they were paid by a person not obligated to do so.

2. A customhouse will also refund paid customs duties in the event the export of goods released to free circulation abroad does not take place.

3. A customhouse shall return any excess payments in the event more was paid in customs duties than was owed.

4. A customhouse may return import duties in the event goods that were released for free circulation within the country are reexported in an unchanged status within one year from the end of the calendar year in which they were imported.

5. A customhouse may return export duties if the goods that were released into free circulation abroad are reimported in an unchanged status within one year from the end of the calendar year in which they were exported.

Section 57

1. If the customs duties (surcharges) do not exceed 10 Czech korunas [Kcs], a customhouse will not refund them.

2. The participant's entitlement to a refund of customs duties (excess payments) is extinguished if it has not been asserted by the end of the third calendar year following the year in which the entitlement came into being.

CHAPTER VI

Customs Proceedings

Part One
General Provisions

Section 58. Purpose of Customs Proceedings

Within the framework of customs control, customs proceedings are held, the purpose of which is to decide whether imported goods, exported goods, or transit-shipped goods shall be released and under what conditions.

Section 59. Release of Goods

Goods shall be released provided the import, export, or transit shipment of goods is handled in accordance with regulations that prescribe import, export, or transit shipment prohibitions or restrictions.

Section 60. Local Jurisdiction

1. Customs proceedings are handled by a customhouse to which the goods have been presented.

2. The Federal Ministry of Foreign Trade can, for purposes of speeding up customs proceedings and, thus, the movement of goods across state borders, stipulate, by proclamation, the responsible customhouse.

Section 61. Location of Customs Proceedings

1. Customs proceedings are undertaken at a customhouse or in the customs area. Customs areas are defined as locations housing railroad stations, ports, airfields, and other areas intended for the execution of customs proceedings.

2. The customs area is determined by a customhouse, in agreement with the appropriate organization.

3. At the request of a participant in a customs proceeding, such proceedings can be executed even outside of the customs area.

4. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Transportation and the Federal Ministry of Communications, shall stipulate, by proclamation, the conditions under which customs proceedings may be implemented outside of customs areas.

Section 62

1. Customs proceedings may be also implemented aboard a train under way or aboard ship during its navigation.

2. Sectors in which customs proceedings may be implemented on board a moving train or vessel are determined by the Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Transportation and the Federal Ministry of the Interior.

Section 63. Initiation of Customs Proceedings

Customs proceedings are initiated upon the proposal of a participant in a customs proceeding.

Section 64. Participants in Customs Proceedings

1. A participant in a customs proceeding is the person who is importing, exporting, or transit shipping the goods involved.

2. A participant in a customs proceeding is also the person for whom the imported, exported, or transit-shipped goods are to be released.

Section 65. Agent of the Participant in a Customs Proceeding

1. A participant in a customs proceeding may appoint an agent for purposes of a customs proceeding.

2. The agent of a participant in a customs proceeding shall prove, on the basis of a power of attorney, that he is empowered to represent a participant in a customs proceeding.

3. If a transport organization or the postal service is engaged in shipping goods that are to be subjected to a customs proceeding, these organizations are authorized to undertake the actions necessary for a customs proceeding, provided these actions are not implemented by a participant in a customs proceeding.

Section 66. Proposal To Hold a Customs Proceeding

1. A proposal to hold a customs proceeding is generally submitted in writing. The participant in a customs proceeding is responsible for the correctness of the data appearing in the proposal to hold a customs proceeding. The written proposal to hold a customs proceeding must always be signed by an authorized person.

2. A proposal to hold a customs proceeding must be accompanied by the stipulated documents.

3. The participant in a customs proceeding is entitled to acquire the data necessary for a proposal to hold a customs proceeding by examining the goods under customs supervision.

4. The participant in a customs proceeding may alter a proposal to hold a customs proceeding up to the time the customs examination is initiated. In the course of the customs examination and until the termination of the customs proceeding, the proposal may be altered only in the event the goods involved are to be released to free or restricted circulation or for reimport or reexport.

5. Details regarding the form, content, and substance of a proposal to hold a customs proceeding are stipulated, in the form of a proclamation, by the Federal Ministry of Foreign Trade.

Procedures Involved in a Customs Proceeding

Section 67

1. A participant in a customs proceeding is obligated to present goods for purposes of a customs proceeding, to provide the necessary explanations, and to prepare the goods for customs inspection.

2. In proposing that a customs proceeding be held, a participant in such a proceeding is obligated to notify a

customhouse accurately with regard to the imported, exported, or transit-shipped goods and provide all complete details necessary to judge whether the goods may be released to the proposed area of circulation.

3. The Federal Ministry of Foreign Trade shall stipulate, by proclamation, when a customhouse may waive the requirement to present a proposal for a customs proceeding.

Section 68

1. A customs proceeding is conducted with the participation of a participant in a customs proceeding.

2. Without the participation of a participant in a customs proceeding, a customs proceeding may nevertheless be held if a participant in a customs proceeding refuses to participate or if his whereabouts are not known or if there is a danger of delay.

Rulings in Customs Proceedings

Section 69

1. A ruling in a customs proceeding contains particularly the following:

a) a statement as to whether the goods are to be released or not;

b) conditions under which the goods are released to blocked circulation or conditional free circulation;

c) information regarding further steps in the event a customhouse does not release the goods.

2. With respect to goods subject to the payment of customs duties, the ruling in a customs proceeding sets the level of the customs duties to be paid and possibly includes a statement indicating the goods are being released without the imposition of customs duties.

Section 69a

1. A ruling in a customs proceeding shall contain the facts on the basis of which the goods are being released. If not stipulated otherwise, the ruling in a customs proceeding need not be filled out and forwarded in writing. The statement pertaining to the ruling may be noted in the shipping and accompanying documents or on the written proposal to hold a customs proceeding or may be communicated orally.

2. A ruling that does not release goods into the proposed area of circulation and a ruling regarding release of goods to a restricted free area of circulation is made in writing and communicated by delivery of the written ruling.

3. A ruling that is communicated orally or the statement of which is noted in shipping and accompanying documents may not contain conditions that are binding upon a participant of a customs proceeding in the future, with the exception of those conditions that stem directly from the generally binding legal regulations.

4. If the statement on the ruling in a customs proceeding confirms the proposal to hold a customs proceeding that has been submitted in writing, then the contents of this proposal and the actual facts according to which the goods are to be released become part of the decision.

5. The rulings listed in Paragraph 3 above are not subject to the provisions of general regulations on administrative proceedings[7] that adjust the substance of decisions, notifications, and means of rectification.

Section 70. Handling of Goods

At the request of a participant in a customs proceeding, a customhouse may permit the goods to be handled even prior to the decision on their release. A customhouse will always acquiesce to the request if the reason for not releasing the goods is merely the necessity to determine the origin of the goods, the location of dispatch, the tariff category, or the customs value of the goods involved.

Section 71. Entitlements and Obligations Resulting From a Customs Proceeding

1. The agent of a participant in a customs proceeding is responsible for fulfilling the obligations resulting from the customs proceeding all the way through the notification of the decision and delivery of the goods to a participant in a customs proceeding.

2. At the proposal of a participant in a customs proceeding, a customhouse may permit a third person to wholly or partially take on the rights and obligations resulting from release of the goods for export, import, or transit shipment.

Section 72. Rescission of Rulings

If goods have been released to enter a free or blocked area of circulation abroad, a customhouse shall, at the proposal of a participant in a customs proceeding, rescind the issued ruling if the goods have not yet crossed the state border. Prior to making this decision, a customhouse may demand that the goods and the required documents be submitted to it.

Inadequate Cooperation on the Part of a Participant in a Customs Proceeding

Section 73

1. In the event a participant in a customs proceeding does not submit a proposal to hold a customs proceeding within two days following the presentation of the goods to a customhouse, a customhouse may store the goods according to Section 80 at his expense and risk or make other provisions to prevent the unauthorized handling of the goods.

2. If the proposal to hold a customs proceeding is not complete or if the participant in a customs proceeding does not present the necessary documents or fails to provide the required explanations, a customhouse will challenge him to augment his proposal for a customs proceeding or to provide the necessary documents or to provide the required explanations by a deadline that it establishes at the time.

3. Failure by a participant in a customs proceeding to heed the challenge shall cause a customhouse to reject

the proposal to hold a customs proceeding and to handle the goods as described in Paragraph 1 above.

Section 74

1. If, after expiration of the deadlines listed in Section 73, Paragraphs 1 and 2, above, a proper proposal to hold a customs proceeding has not been received for an additional three days with respect to goods subject to rapid spoilage or within an additional 30 days, a customhouse may sell the goods. In accomplishing the sale, it shall proceed in accordance with Sections 107 and 109 of this law.

2. If the goods have a greater value and are not subject to rapid spoilage, a customhouse is obligated to notify a participant in a customs proceeding of the intended sale in a timely manner.

3. A customhouse may grant a participant in a customs proceeding an appropriate amount of additional time to submit a proposal for a customs proceeding, to augment this proposal, to submit the necessary documents, or to provide the required explanations.

Part Two
Methods for Releasing Goods

Free Circulation

Section 75

1. Customhouses shall release imported goods that are intended to remain permanently on the territory of the Czech and Slovak Federal Republic to free circulation within the country.

2. Customhouses shall release exported goods into free circulation abroad if they are to be permanently retained on the territory of another state.

3. Goods are considered to be in free circulation within the country as soon as import duties have been paid and other fees have been collected in conjunction with the import or when a deposit on customs duties has been paid or a guarantee provided that they will be paid.

4. From the standpoint of this law, goods released to free circulation may be handled freely, provided the conditions stipulated in the generally binding regulations imposed as part of the decision regarding their release are fulfilled.

Section 76

1. If goods, subject to customs duties, are released without the imposition of duty or at a reduced rate of duty, a customhouse may stipulate for a participant of a customs proceeding that the goods may be used only for a certain purpose or that they may not be misappropriated for at least five years from the day the goods were released with this stipulation.

2. Goods released as a result of import in accordance with Paragraph 1 above are considered to be in conditional free circulation within the country and goods released as a result of export are considered to be in conditional free circulation abroad.

3. Customhouses are empowered to check whether a participant in a customs proceeding is adhering to conditions stipulated in Paragraph 1 above with respect to goods released to conditional free circulation.

Blocked Circulation

Section 77

1. Goods released to circulation of record, goods that are registered, warehoused, transit shipped, and goods in the process of being transferred are considered to be goods in blocked circulation.

2. In the event goods are released to blocked circulation, a customhouse checks to see whether a participant in a customs proceeding is fulfilling the duties stipulated in a customs proceeding.

3. The Federal Ministry of Foreign Trade stipulates, by proclamation, the details of adjusting the release of goods to blocked circulation.

Section 78

1. Customhouses shall release imported goods to circulation of record within the country provided that they are reexported abroad within the stipulated time.

2. Customhouses shall release exported goods into circulation of record abroad, provided that they are reimported into the country within the stipulated time frame.

3. Goods released to circulation of record may be permanently retained in this country or abroad only following a decision to release the goods into free circulation.

4. If goods released into circulation of record are changed with respect to their value by processing, adjustment, or temporary use, the provisions of this law on free circulation are applied at reimport time or reexport time with respect to the increased or decreased value of the goods involved.

5. The Federal Ministry of Foreign Trade shall stipulate, by proclamation, the purposes for which such goods may be released to circulation of record.

Section 79

1. In cases where subsequent customs proceedings are to be held at another customhouse, a customhouse of record registers the goods involved.

2. The registered goods are under customs control of the registering customhouse until such time as they are presented to the accepting customhouse.

3. At the behest of a border customhouse, the goods may be certified in cases where a customs proceeding would disrupt the flow of traffic across the state border and between border customhouses and if the destination of the goods is another customhouse.

4. A participant in a customs proceeding shall present the certified goods to the receiving customhouse within the stipulated time frame, in an unchanged status, with an undisturbed customs seal, and together with the

attached documents. The certifying customhouse may determine that only documents pertaining to the goods need be presented.

5. If the transport organization transfers certified goods to another transport organization for shipment, the obligations listed in the previous paragraph pass to every other organization that handles the certified goods.

Section 80

1. Goods that cannot be certified or released into free or recorded circulation or cannot be certified for export abroad may be stored temporarily.

2. At the initiative of a customhouse the goods are temporarily stored in cases where no other method is available to prevent their import, export, or transit shipment in conflict with this law.

3. At the initiative of a customhouse, the goods in question may also be temporarily stored in cases where:

a) no proposal to hold a customs proceeding has been received;

b) the submitted proposal for a customs proceeding is incorrect, it is not accompanied by the appropriate documents, or it is otherwise incomplete, in the event this is not a case as outlined in Section 70 above;

c) a participant in a customs proceeding refuses to pay the duty or deposit a customs duty surety.

4. The goods are temporarily stored in operating warehouses of transport organizations and the postal authorities, in customs warehouses, or wherever a customhouse permits as a result of its decision to temporarily store the goods.

5. Temporarily stored goods may not be handled in any way that would alter their type or character.

6. A participant in a customs proceeding is liable for storage fees for temporarily stored goods in customs warehouses at levels stipulated by the warehousing rate table.

7. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finance, shall stipulate, by proclamation, the rate table for storage charges for goods that are temporarily stored in customs warehouses.

8. The adoption of this law and its implementing regulations as they pertain to temporary storage do not apply to the storage of goods in customs warehouses and free customs zones.

Section 81

1. In the interest of facilitating foreign trade contacts, Czechoslovak as well as foreign legal and private individuals can establish customs warehouses.

2. The customs warehouse shall make decisions regarding the establishment of a customs warehouse and the conditions for its operation on the territory on which such a warehouse is to be established.

3. This law and its implementing regulations regarding the storage of goods in customs warehouses does not apply to temporarily stored goods and goods stored in free customs zones.

4. Conditions for establishing customs warehouses, the types of customs warehouses, the types of goods that can be stored in customs warehouses, and the method of customs control in customs warehouses is regulated by the Federal Ministry of Foreign Trade by proclamation.

Section 82

1. Customhouses shall permit goods in transit, which are transported from abroad through the territory of the Czech and Slovak Federal Republic, to move to a foreign country.

2. The border customhouse at which the goods were transported into the Czech and Slovak Federal Republic shall certify the transit-shipped goods to the border customhouse through which the goods are to be shipped abroad.

3. Customs inspection of transit-shipped goods will be conducted by the border customhouse if the suspicion exists that the transit shipment of goods is accomplished in conflict with this law.

Section 83

1. A customhouse shall permit goods transported from the territory of the Czech and Slovak Federal Republic via the territory of another state to be shipped back to the territory of the Czech and Slovak Federal Republic.

2. This shipping contact may be accomplished only in sectors and under conditions that are stipulated by the Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Transportation.

3. Goods-in-transit contacts are under the customs control of the entry border customhouse until they are presented to the entry border customhouse for a customs proceeding.

4. A participant in a customs proceeding is obligated to present goods transported as a result of a shipping contact to the entry border customhouse within the stipulated time limit, in an unchanged status, with the customs seal intact, and with the attached documents.

CHAPTER VII

Proceedings on Customs Violations

Section 84. Customs Infringement

A customs infringement is an actionable act as listed in Sections 85 through 87 of this law, provided a criminal action is not involved.

Section 85. Violation of Regulations Covering the Circulation of Goods in Contacts With Foreign Countries

1. A customs infringement tantamount to violating regulations covering the circulation of goods in contacts with foreign countries is committed by a person who:

a) fails to report, to a customhouse, any goods crossing the state border;

b) imports or exports goods with permission that was granted by the appropriate organs on the basis of false, altered, or forged documents or incorrect data;

c) causes goods to be released to him on the basis of incorrect data or untrue data;

d) without authorization, misappropriates goods in restricted circulation;

e) purchases or acquires goods in restricted circulation through another method without being entitled to do so;

f) engages in unauthorized import or export of goods.

2. The fine assessed for violating regulations covering the circulation of goods in contacts with foreign countries may be as high as the value of the goods, but may not exceed a maximum of Kcs25,000.

Section 86. Underpayment of Duties

1. The misdemeanor of underpaying duties is committed by a person who:

a) imports or exports goods without paying duties on them;

b) misappropriates goods in restricted circulation or in conditional free circulation without paying duties;

c) lists incorrect data to support the assessment of duties in a customs proceeding held with respect to the import or export of goods.

2. The fine levied for underpaying customs duties can be as high as double the customs duties, but may not exceed Kcs25,000.

Section 87. Rendering Customs Control More Difficult

1. The misdemeanor of rendering customs control more difficult is committed by a person who:

a) forges customs or other documents regarding the imported, exported, or transit-shipped goods;

b) provides incorrect data on the imported, exported, or transit-shipped goods during customs control;

c) fails to adhere to conditions stipulated for goods released to restricted circulation or conditional free circulation;

d) transports or harbors goods that have escaped customs control;

e) releases goods from a customs warehouse or an operating warehouse without the approval of the Customs Administration;

f) violates the customs seal affixed to shipments, transport media, or rooms that house goods subject to customs control;

g) fails to heed the exhortations of customs authorities or otherwise obstruct organs of the Customs Administration in the execution of their activities.

2. The fine for making customs control more difficult may be as high as Kcs5,000.

Section 88. Penalties

1. A customhouse may mete out any of the following types of punishments for a customs misdemeanor:

a) reprimand;

b) fine at a level listed in Sections 85, 86, or 87 above;

c) forfeiture of the goods.

2. If the individual has committed numerous customs misdemeanors through his conduct, a customhouse shall assess a fine only in line with that provision that pertains to the most strictly punishable misdemeanor.

3. The punishment of forfeiture of the goods may be meted out by a customhouse even in addition to a reprimand or a fine.

Section 89. Forfeiture of Goods

1. A customhouse may declare the forfeiture of goods that were the object of a customs misdemeanor or that were acquired as a result of a customs misdemeanor or that were used in committing a customs misdemeanor.

2. Forfeiture of the goods may be declared only if the goods are the property of the individual who has committed the customs misdemeanor.

3. Forfeiture of the goods may not be declared if the value of the goods is not commensurate with the severity of the customs misdemeanor.

4. Ownership of goods that have been forfeited passes to the state.

Section 90. Confiscation of Goods

1. A customhouse may confiscate goods that were the object of a customs violation or that were acquired as a result of a customs violation or that were used in the commission of a customs violation, provided the individual who committed the customs violation is unknown or cannot be summoned to take responsibility.

2. Goods that do not belong to the person who has committed a customs violation may be confiscated, provided they were the object of the customs violation in question or were acquired as a result of the customs violation or were used in the commission of a customs violation and if they endanger the safety of persons or property or if the public interest so requires.

3. Goods may not be confiscated if their value is not commensurate with the severity of the customs violation.

4. Ownership of the confiscated goods passes to the state.

Section 91. Payment of Fines

A fine assessed for a customs violation is payable within 30 days from the day the decision assessing the fine became legally effective.

Section 92. Local Jurisdiction

1. A customs violation will be handled by a customhouse in whose circuit the violation was committed or determined.

2. A customhouse with jurisdiction to handle the customs violation according to Paragraph 1 above may cede the case to a customhouse in whose circuit the individual who has committed the customs violation is domiciled or in the circuit in which he works.

Block Rulings

Section 93

1. Members of the Customs Administration may assess and collect fines up to Kcs500 for customs violations without any further negotiation if the customs violation has been reliably determined to have taken place and if an understanding is not adequate (block rulings).

2. If the individual who has committed a customs violation refuses to pay the fine, then the customs violation will be handled by the appropriate customhouse.

3. There is no appeal against a fine assessed under terms of block rulings.

Section 94

1. During a block proceeding, it is also possible to declare the goods to be forfeited if they were the object of the customs violation or if they were acquired as a result of a customs violation or were used in the commission of a customs violation.

2. If the individual who has committed a customs violation refuses to submit to the order declaring the goods forfeited, the customs violation will be handled by the appropriate customhouse.

CHAPTER VIII

Proceedings Regulating the Assessment of Fines Against Organizations

Section 95

1. If an organization violates the regulations governing the circulation of goods in contact with a foreign country, underpays customs duties, or makes customs control more difficult (hereinafter referred to only as "violation of customs regulations"), a customhouse may assess a fine against it at a level listed in Sections 96, 97, or 98 below.

2. For the purposes listed in the provisions of this chapter of the law, an organization is also considered to be an individual recorded in the Enterprise Register as an entrepreneur.

Section 96

A customhouse may assess a fine against an organization up to the value of the goods involved if that organization violates the rules governing the circulation of goods in contact with a foreign country by having engaged in the following activities:

a) importing and exporting goods without authorization;

b) failing to notify a customhouse of goods crossing the state border;

c) importing or exporting goods with permission that was granted by the appropriate organs on the basis of false, altered, or forged documents or incorrect data;

d) causing goods to be released on the basis of incorrect or false data;

e) misappropriating goods in blocked circulation without authorization;

f) engaging in the unauthorized purchase or other acquisition of goods in blocked circulation.

Section 97

A customhouse may assess a fine against an organization up to double the value of the customs duties if that organization underpays the customs duties by:

a) exporting or importing goods without paying customs duties;

b) misappropriating goods in blocked circulation or conditional free circulation without paying duties;

c) introducing incorrect data to support the computation of customs duties in a customs proceeding pertaining to the import or export of goods.

Section 98

A customhouse may assess a fine against an organization up to Kcs100,000 if that organization makes customs control more difficult by:

a) introducing incorrect data during customs control pertaining to imported, exported, or transit-shipped goods;

b) failing to adhere to conditions stipulated for goods released to blocked circulation or conditionally free circulation;

c) transporting goods that have escaped customs control;

d) releasing goods from a customs or operational warehouse without the approval of organs of the Customs Administration.

Section 99

Fines according to Section 95 above may be assessed against a legal entity only for the period of one year from the day the organ of the Customs Administration found out that the legal entity has violated or failed to fulfill the obligations assigned by customs regulations, but no later than three years from the day this violation or the lack of fulfillment of obligations occurred.

Section 100

The fine assessed against an organization for violating customs regulations is payable within 30 days from the day the decision that assessed that fine becomes legally effective.

Section 101

1. Violations of customs regulations will be handled by a customhouse in whose circuit the organization in question has its seat.

2. If the organization does not have its seat in the Czech and Slovak Federal Republic, a customhouse in which the violation of customs regulations occurred may handle the violation or a customhouse in whose circuit the violation of customs regulations was determined can handle the case.

CHAPTER IX

Proceedings Involving the Seizure and Sale of Goods

Part One
Seizure of Goods

Section 102

1. To cover the customs duties, a customhouse may seize the goods that have a customs lien against them.

2. For purposes of handling the illegal import, export, or transit shipment of goods, a customhouse may:

a) seize goods that were the object of a customs violation or that were acquired as a result of a customs violation or that were instrumental in the commission of a customs violation from an individual;

b) seize goods that were the object of a customs violation or that were acquired as a result of a customs violation or that were instrumental in the commission of a customs violation from an organization.

3. A customhouse may seize goods in accordance with Paragraphs 1 and 2 above without regard to the rights of third parties.

4. In cases where a suspicion exists that a criminal act was committed during the import, export, or transit shipment of goods, a customhouse shall hand over the seized goods to organs active in criminal proceedings, at their request.

Section 103

1. If it is not possible to seize goods in accordance with Section 102, Paragraphs 1 and 2, above because they are not accessible or have been consumed, a customhouse may, for purposes of covering the customs duties or any possible fines assessed the individual who has committed a customs violation or an organization that has violated customs regulations, seize even other goods imported, exported, or transit shipped by these entities.

2. According to Paragraph 1 above, a customhouse may seize goods only if:

a) they belong to the individual or organization that has failed to pay the customs duties or the fine;

b) the value of the goods is commensurate with the amount of the duties or the assessed fine.

Section 104

1. A customhouse shall issue a decision regarding the seizure of goods and notify the individual or the organization from whom the goods were seized.

2. The decision regarding the seizure of goods shall contain the reasons why the goods are being seized and a reminder to the individual or organization to whom the decision applies of their rights and obligations. The decision will also contain a reminder stating that the goods will be sold if the duties or possible fines are not paid.

3. Goods that may be seized in accordance with Sections 102 and 103 above may be left in the possession of the individual or organization involved and these entities may be prohibited from using, selling, or otherwise handling these goods.

Section 105

1. The individual or organization who has been notified of a customhouse decision to seize goods is obligated to release these goods to a customhouse.

2. If the seized goods are not handed over to a customhouse, they can be confiscated from whoever has them in possession.

3. A document pertaining to the handing over or confiscation of seized goods must be prepared and must list the description of the goods and is then delivered to the individual or organization that has handed over the goods or from whom the goods were confiscated.

Section 106

1. If there is no further need for the seized goods for the purposes of further proceedings, and if the seized goods are not to be forfeited in accordance with Section 89 or confiscated in accordance with Section 90 or sold in accordance with Section 107, they are returned to the individual or organization from whom they were seized.

2. If an individual or organization other than the individual or organization from whom the goods were seized asserts their right to the seized goods, a customhouse shall hand over the goods to that entity that has undoubted rights to the property.

3. If a customhouse has any doubts as to whether the seized goods belong to any one individual or organization or to another individual or organization, which is asserting its rights to the goods, a customhouse shall advise these individuals and organizations to assert their entitlements in a proceeding, the object of which is the regulation of property relationships.

Part Two
Sale of Goods

Section 107

1. A customhouse may sell seized goods in accordance with Section 102, Paragraph 1, above if the customs duties are not paid within 30 days following the effective date of the decision that requires that the duties be paid.

2. A customhouse may sell the goods seized in accordance with Section 102, Paragraph 2, above with respect to which the punishment of forfeiture has been declared or goods that have not been confiscated to cover the fine assessed against an individual for a customs violation or against an organization for violating customs regulations if the fine is not paid within 30 days after the decision that assesses it becomes effective.

3. A customhouse may immediately sell goods subject to rapid spoilage or live animals seized in accordance with Section 102, Paragraph 2, or Section 103, Paragraph 1.

4. A customhouse may sell goods that have been seized in accordance with Section 103 if the duties or fine assessed against an individual for a customs violation or against an organization for violating customs regulations are not paid within the time limits specified in Paragraphs 1 and 2.

5. According to Paragraphs 1 through 4, it is not possible to sell goods that are national property.

Section 108

1. A customhouse shall generally sell goods by auction. In so doing, it proceeds in accordance with specialized regulations.[8]

2. Goods that cannot be sold at auction are sold by a customhouse to legal entities and private individuals authorized to handle the sold types of goods in accordance with generally binding legal regulations.

3. Goods that are not salable or usable for reasons of health, veterinary reasons, plant production reasons, security reasons, or for other reasons are handled by a customhouse in accordance with specific special regulations.

Section 109

1. The proceeds from the sale of goods are used, on a priority basis, to cover the customs duties, plus transport costs, warehousing costs, postal fees, fines assessed against individuals for customs violations or against organizations for violating customs regulations, and to defray the costs of the proceedings. The remainder of the proceeds shall be paid out by a customhouse to the authorized individual. If an authorized individual does not report within three years following the sale of the goods involved, the possible remainder of the proceeds passes to the state.

2. In the event a third party or organization asserts its rights to the remainder of the proceeds from the sale of goods at a customhouse, a customhouse shall advise this individual or organization to assert its rights in a proceeding, the object of which is the regulation of property relationships.

3. The individual or organization whose goods were seized or stored is notified of the sale of the goods involved.

Section 110

1. A customhouse is authorized to sell or possibly otherwise dispose of goods that have been:

a) declared to be forfeited or that were confiscated at a proceeding involving customs violations;

b) declared to be forfeited or that were confiscated as a result of a criminal proceeding dealing with criminal acts committed during import, export, or transit shipment of goods;

c) given up by a participant in a customs proceeding to the benefit of the state.

2. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finance, shall stipulate, by proclamation, the procedures involved in the sale, or possible other handling of goods listed in Paragraph 1 above.

CHAPTER X

Common Principles To Be Observed in Proceedings Before Organs of the Customs Administration

Section 111

To the extent to which the provisions of this law do not indicate otherwise, customs violations and proceedings before organs of the Customs Administration are subject to the general regulations covering violations and administrative proceedings.[9]

Remedial Measures

Section 112

1. The Customs Directorate to which the pertinent customhouse is subordinate makes decisions regarding appeals against the decision by a customhouse.

2. The Central Customs Administration makes decisions regarding appeals against decisions made by the Customs Directorate.

3. An appeal can be filed in court against the decision of the Customs Directorate regarding the stipulation of the customs value of commercial goods in accordance with Paragraph 1. The kraj court in whose jurisdiction the Customs Directorate has its seat makes the decisions with regard to this remedial measure.

Section 113

1. An appeal filed against the decision of organs of the Customs Administration does not have a delaying effect. The organ of the Customs Administration against whom the appeal decision is directed or the appealing organ may permit a delaying effect, provided this does not

render the implementation of the decision more difficult or does not interfere with the public interest.

2. The timely filing of an appeal against the decision on a customs violation and against the decision that assesses a fine against an organization for violating customs regulations does have a delaying effect, which may not be excluded.

Section 114. Implementation of Decision

If the customs duty, transport costs, warehousing costs, postal fees, fines assessed against an individual for a customs violation or against an organization for violating customs regulations, and the costs of the proceeding are not paid within the stipulated deadlines, and if it is not possible to cover them through the sale of the goods involved, according to Section 107, a customhouse may implement its decision in accordance with regulations on administrative proceedings.[9]

CHAPTER XI

Common, Transitory, and Concluding Provisions

Section 115

1. The provisions of this law regarding the punishment of forfeiture of goods, the confiscation of goods, the seizure and sale of goods are also applicable to other things and valuables according to the regulations on the foreign exchange economy, provided they were acquired as a result of a customs violation.

2. The provisions of this law on the seizure of goods according to Section 103 are equally applicable to things and other valuables in accordance with regulations on the foreign exchange economy.

Section 116

To the extent to which this law does not otherwise state, the provisions covering the import and export of goods are applicable to the transport of goods in transit and to transit shipments.

Section 117

Customhouses shall handle violations of the foreign exchange economy, which have been identified during the implementation of foreign exchange control involving the export and import of items and valuables, in accordance with the regulations on the foreign exchange economy.[6] In handling violations of the foreign exchange economy, customhouses shall proceed in accordance with general regulations covering the handling of violations.

Section 118

1. The Federal Ministry of the Interior may, in agreement with the Federal Ministry of Foreign Trade, authorize members of the National Security Corps to fulfill some of the functions assigned to customhouses.

2. The Federal Ministry of Foreign Trade may, in agreement with the appropriate organs of state administration, entrust customhouses with the fulfillment of some tasks in accordance with regulations covering health, veterinary, and plant production protection and tasks in accordance with regulations covering the collection of taxes, payments, and fees.

Section 119

1. Customhouses are empowered to accept even foreign currencies to cover customs duties, transport costs, warehousing costs, postal fees, fines, and costs of proceedings.

2. The conditions for handling the remuneration in accordance with the previous paragraph are stipulated by the Federal Ministry of Finance.

Section 119a

If an international agreement, to which the Czech and Slovak Federal Republic is bound, specifies measures that differ from this or that differ from the regulations issued in accordance with it, then the treaty obligations are valid.

Section 119b

As long as the organs of the Customs Administration are engaged in implementing their authorities in accordance with special regulations, they have, to the extent to which these regulations do not state otherwise, the same rights and obligations as they have during customs control. The same holds true of the rights and obligations of the entities subject to this control.

Section 120

1. Proceedings initiated prior to the effective date of this law shall be concluded in accordance with existing regulations.

2. Customs violations committed prior to the effective date of this law shall be handled in accordance with existing regulations.

Section 121

The customs rate table issued by Government Regulation No. 32/1947 Sb, complete with changes and supplements, is considered to be the customs rate table for commercial goods according to this law. The flat-rate table issued by Proclamation No. 6/1969 Sb of the Ministry of Foreign Trade is considered by this law to be the customs rate table for noncommercial goods.

Section 122

The following are hereby rescinded:

1. Customs Law No. 36/1953 Sb;

2. Ministry of Foreign Trade Proclamation No. 147/1954 U.l. [OFFICIAL GAZETTE], which constituted the Railroad Customs Code;

3. Ministry of Foreign Trade Proclamation No. 149/1954 U.l., which constituted the Aviation Customs Code;

4. Ministry of Foreign Trade Proclamation No. 151/1954 U.l., which constituted the Postal Customs Code;

5. Ministry of Foreign Trade Proclamation No. 82/1961 Sb, which implements the Customs Law;

6. Ministry of Foreign Trade Proclamation No. 81/1962 Sb, regarding customs duty relief for objects imported for the use of persons and organizations utilizing the preferences and immunities of the Czechoslovak Socialist Republic;

7. Ministry of Foreign Trade Proclamation No. 36/1963 Sb, which constituted the Navigational Customs Code;

8. Ministry of Foreign Trade Proclamation No. 106/1953 Sb, which constituted the Highway Customs Code;

9. Ministry of Foreign Trade Proclamation No. 7/1965 Sb, regarding the organization of a network of customhouses and their jurisdictions;

10. Ministry of Foreign Trade Proclamation No. 85/1967 Sb, which amends and augments Proclamation No. 82/1961 Sb, which implements Customs Law No. 36/1953 Sb;

11. Section 15, Section 31, Paragraph 2, and Section 32, Letters b) and c), of Law No. 60/1961 Sb, regarding the tasks of national committees in safeguarding socialist order.

Section 123

This law becomes effective 1 January 1975.[10]

Article II of Law No. 217/1992 Sb

24. Proceedings initiated prior to 1 June 1992 are handled in accordance with the law that was effective prior to that date; the new law shall be applied only in the event this is more advantageous to the participants in a customs proceeding.

Footnotes

1. Law No. 135/1982 Sb, regarding reporting and recording the temporary sojourn of citizens.

2. Section 89, Paragraph 5, of Law No. 140/1961 Sb, the Criminal Code.

3. Federal Ministry of Interior Decree No. 99/1989 Sb, on operating rules pertaining to ground communications (highway traffic regulations), as amended by Federal Ministry of Interior Decree No. 25/1990 Sb.

4. Section 41, Paragraph 2, of Law No. 140/1961 Sb.

5. For example, Law No. 547/1990 Sb, regarding handling certain types of goods and equipment and control over these items, Law No. 528/1990 Sb, Foreign Exchange Law, as amended by Law No. 228/1992 Sb.

6. Foreign Exchange Law.

7. Law No. 71/1967 Sb, regarding administrative proceedings (Administrative Code).

8. Law No. 174/1950 Sb, regarding auctions other than executions, as amended by Law No. 513/1991 Sb.

9. Law No. 71/1967 Sb; Czech National Council [CNR] Law No. 200/1990 Sb, regarding violations; Slovak National Council [SNR] Law No. 372/1990 Sb, regarding violations, as amended by SNR Law No. 524/1990 Sb.

10. Law No. 117/1983 Sb, which amends and augments the Customs Law, became effective on the day of its publication—1 November 1983; Law No. 5/1991 Sb, which amends and augments Customs Law No. 44/1974 Sb, as amended by Law No. 177/1983 Sb, became effective on 1 February 1991; Law No. 143/1992 Sb, regarding pay and emoluments for being ready to work in budgetary as well as in some additional organizations and organs became effective 1 May 1992; Law No. 217/1992 Sb, which amends and augments Customs Law No. 44/1974 Sb, as amended by subsequent regulations, became effective 1 June 1992.

Decree on Police Providing Government Security Services

93CH0284B Budapest MAGYAR KOZLONY in Hungarian No 126, 17 Dec 92 p 4419

[Government Decree No. 165 of 17 December 1992 amending Government Decree No. 39 of 15 September 1990 Concerning the Functions and Jurisdiction of the Minister of the Interior"]

[Text]

Paragraph 1

Paragraph 5 of Government Decree No. 39 of 15 September 1990, as amended several times before (hereinafter: R.) shall be amended by adding the following Sections (2) and (3), and by changing the present text so as to be designated as Section (1):

"(2) The minister of the interior shall, through the police, provide for the protection of the lives and physical safety of persons particularly important from the standpoint of the interests of the Hungarian Republic (hereinafter: protected persons), and for the guarding and protection of the National Assembly, the government, the Ministry of the Interior, the Foreign Ministry, and other designated buildings (hereinafter: protected facilities), and shall determine the related professional tasks.

"(3) The government and the minister of the interior shall designate protected persons and protected facilities, in due regard to international obligations and to the practice of reciprocity."

Paragraph 2

This decree shall take effect on 1 January 1993; simultaneously, Section (2) of Paragraph 6 of the R., as well as Council of Ministers Decree No. 20 of 8 April 1988 concerning the functions and jurisdiction of the minister of the interior shall lose force.

[Signed] Dr. Jozsef Antall, Prime Minister

Decree on Official Military Secrets

93CH0284A Budapest MAGYAR KOZLONY in Hungarian No 125, 15 Dec 92 pp 4387-4390

[Text of Minister of Defense Decree No. 27 of 15 December 1992 Concerning State and Official Secrets Related to the Military]

[Text] Pursuant to authorization contained in Paragraph 5 Sections (1)-(2) of Decree with the Force of Law No. 5 of 1987 concerning state and official secrets, I order the following:

Paragraph 1

I am defining the scope of state and official secrets related to the military as specified in the *appendix.*

Paragraph 2

This decree takes effect eight days after its proclamation. Simultaneously, Defense Minister's Decree No. 4 of 5 September 1988 concerning cartographic data and aerial photographs, MNVKF [Hungarian People's Army Chief of Staff] action No. 075 of 1989 concerning the contents of state and official secrets related to the military, MHVKF [Hungarian Honved Forces Chief of Staff] action No. 8 of 1991 amending the scope of state and official secrets related to the military, and MHVKF action No. 28 of 1991 amending MNVKF action No. 075 of 1989 concerning the contents of state and official secrets related to the military lose force.

[Signed] Dr. Lajos Fur, Defense Minister

Appendix to Minister of Defense Decree No. 27 of 15 December 1992

I. State Secrets Related to the Military

(1) Information that could reveal the essence of inventions, manufactured products, defense investments of outstanding significance, as well as of the development of defense capabilities.

(2) All data pertaining to the combat order extract of the combat order of the Hungarian Honved Forces (hereinafter: MH) to and including the regimental level, as well as to the formulation, maintenance and distribution of strategic materiel.

(3) Concepts and plans related to the deployment of the MH under extraordinary and emergency conditions.

(4) Information related to the secure management system of the upper-level state and military leadership.

(5) Documents, plans, concepts, recommendations, and reports related to the MH combat alert, alarm and sales ["ertekesitesi"—as published; should be "ertesitesi"—notification] system, as well as all assessments and reports on preparedness to mobilize and on combat readiness, and further, all combat readiness plans of Military Districts and of identical, or higher level military organizations, and related documents pertaining to the entire organization.

(6) The entire plan of the Ministry of Defense (hereinafter: HM) organization and of the MH communication system; special means used or part of the system to protect information, as well as the keys to, and other documentation related to these.

(7) Detailed budget, computation, and developmental materials of the MH.

(8) Cooperative agreements, contracts, and plans involving the defense ministries or armed forces of other countries, as well as data pertaining to military technology equipment mutually regarded as state secrets by the parties involved.

(9) All data concerning the strategic intelligence system, its functions and operation, as well as all data concerning MH counterintelligence.

(10) Intelligence reports, military policy situation analyses prepared by the Military Intelligence Office of the Honved Staff.

(11) Any action or information generated as a result of such action directed verbally or in writing, irrespective of the data conveyance medium stored in, within the national security functional scope of the MH Military Security Office and the Honved Staff Intelligence Office, which could reveal the action taken, and further, the national security purpose and function of using special secret service means and methods.

(12) All data classified as state secrets under special orders by organ(s) and person(s) with management or leadership functions involving the HM and the MH.

II. Official Secrets Related to the Military

(1) Excerpts of the MH combat strategy, personnel tables, and, depending on their contents, excerpts from personnel tables, and the personnel tables of the HM and organizations directly involved with the HM. Specifying the combat strategy of military organizations not functioning in times of peace.

(2) The combat preparedness plan of the military organization, and related documents concerning the entire organization not classified as state secrets.

(3) Plans, orders governing cooperation between the ready alert and the alert forces, as well as between the various types of military forces and weapons, and the deployment plans of ready alert forces to the unit level, inclusive.

(4) Analyses and reports related to airspace violations, airplane disasters, and accidents (until their release).

(5) Disaster prevention plans related to hazardous plants.

(6) Plans and related documents concerning the preparation of the combat field.

(7) Data pertaining to the organization, system, and operation of the military area beam observation and signalling system.

(8) All listings of cover names and code numbers of tasks (plans) established by the Honved Chief of Staff.

(9) Professional measures related to the planning and organizing of strategic-tactical intelligence, intelligence reports, military policy situation analyses, except those classified as state secrets.

(10) All plans for utilizing the services of the national economy by the MH.

(11) All data concerning cartographic inventories and the safeguarding of maps at Military District Commands and at organizations of equal of higher level.

(12) Aerial photographs taken by survey cameras prior to developing and classification per picture, as well as large-scale basic maps (1:10,000 and larger) and aerial photographs of MH facilities, if the map or aerial photograph reveals information concerning the purpose and protection of the facility.

(13) The complex system by which the HM, the organs of the MH, the Ground Forces Command, the Air Defense Command, and the Military District Commands protect secrets. Summary reports concerning the situation of secret protection and the handling of secret documents at a Military District Command or at equal or higher military organizations. Minutes (documents) prepared in the course of investigating security violations, insofar as these do not contain information classified as a state secret.

(14) Designs showing the deployment of concealed guarding and protective systems for military facilities, and data concerning their functioning and reliability.

(15) Measures governing the operational, strategic-tactical preparation of commanders and staffs, the principles, requirements, and standards of the combat training of troops, and all assessments of these made at the MH level, as well as fundamental documents relating to the preparation and implementation of preparedness and training functions to the level of units, inclusive.

(16) The management and control plans of the Ground Forces Command, the Air Defense Command, and the Military District Commands, and all reports and minutes prepared of these.

(17) The signaling plan of the Ground Forces Command, the Air Defense Command, and the Military District Commands, documents and orders containing related summary data, as well as plans and documents containing all information regarding the functional arrangement and operation of the signaling system.

(18) The book (table) containing the cover names and teletype codes for the entire leadership structure at the Ground Forces, Air Defense Forces, and Military Districts.

(19) Recommendations, requirements, concepts, information models related to the establishment, development, and introduction of the uniform computer system of the HM and the MH, insofar as these do not contain information classified as state secrets.

(20) System and program documentation, programs, and plans related to the automated systems of the various branches of the military, and to the automation of troop leadership.

(21) All information concerning the MH's electronic equipment, and concerning the deployment, application, and frequency use of civilian electronic equipment planned to be utilized by the MH.

(22) Graphics, notes, lists, and reports concerning the distribution and use of the MH's frequency spectrum.

(23) Radiation parameters noted and recorded at military facilities and equipment, and sound and image recordings made in the course of electronic verification, and all data concerning such verifications.

(24) The detailed budgets of Military Districts, or organizations of an identical or higher levels, reports containing information on budget performance, management audits, and all reports and records of the same.

(25) Detailed plans of specialized branches related to the establishment, maintenance, and distribution of strategic-tactical inventories.

(26) All data concerning military technology equipment, as well as all reports and charts concerning means secured from the national economy (except for technical means subject to limitations).

(27) Plans, forecasts, and proposed plans for military technology research and development.

(28) All plans and contracts related to the introduction of materiel and technical means in the special category, into the system.

(29) Tactical, technical, and structural data concerning military technology equipment classified as secret, and documents related to the introduction to, or removal from, the system of such equipment.

(30) Unit level plans for military transports by rail, public road, water, air, or pipeline, as well as detailed information concerning military transports and the organizing of military traffic.

(31) Data, plans, documents pertaining to special fuels.

(32) The MH's housing and construction investment activities, and all data concerning lodging in the field.

(33) All annual financial plans concerning the MH's exercises, and performance reports on these.

(34) All plans, proposals, and reports related to foreign visits and invitations received by high-level military leaders (until their release).

(35) Cooperative agreements and plans with the defense ministries and armies of other countries mutually regarded as official secrets.

(36) The evaluation of personnel work functions, plans for annual and future personnel changes at Military Districts, and at organizations of equal or higher levels. Detailed information concerning the living and work conditions of MH personnel at Military Districts, and at organizations of equal or higher levels.

(37) All annual data at the MH level related to the exercise of disciplinary authority.

(38) All plans prepared by the regional organs of the national defense administration in order to ensure a capability to mobilize troops.

(39) Information, documents, and implements related to the specific organization of the MH Military Security Office's and the Honved Staff Military Intelligence Office's work related to national security, to the actual performance of their activities, and to the establishment of the related, necessary conditions, insofar as these do not contain state secrets.

Order on Organization, Operation of Financial Guard

93BA0342A Bucharest MONITORUL OFICIAL in Romanian 24 Nov 92 pp 28-32

[Text of Government Order on Organization, Operation of the Financial Guard]

[Text] The Economy and Finance Minister issues the following order, in accordance with Article 20 of Law No. 30/1991 on the Organization and Operation of Financial Oversight and of the Financial Guard, and on Government Decision No. 328/1991 on the Organization and Operation of the Economy and Finance Ministry with subsequent modifications:

Article 1. The Regulation on the Organization and Operation of the Financial Guard, which is the annex to this order, is approved. On the date this order is implemented, the Regulation on the Organization and Operation of the Financial Guard, approved in Order No. 4/1991, is abrogated.

Article 2. The Financial Guard and the General Directorate for Organization, Human Resources and General Services is tasked with implementing this order.

Economy and Finance Minister George Danielescu
Bucharest, 1 October 1992 No. 1079

Annex

Regulation on the Organization and Operation of the Financial Guard

I. General Provisions

Article 1. The Financial Guard is an unbilleted military state corps for specialized financial oversight, which, according to law, operates throughout the country and is subordinate to the Economy and Finance Ministry. The organization and operation of the Financial Guard apparatus, the conditions for its engagement, the rights and obligations of its personnel, and the procedures for developing evidence and challenging completed documents are established by this regulation.

II. Organization and Operation of the Financial Guard

Article 2. The Financial Guard has a headquarters element with overall competence that resides within the Economy and Finance Ministry. In the county and the Bucharest Municipality there are Financial Guard sections within the general directorates for public finance and state financial oversight.

Article 3. The Financial Guard is commanded by an inspector general with undersecretary of state rank, and its activities are coordinated by the Guard Command, which has a composition and conduct established by law. The Financial Guard Command analyzes and debates issues regarding the Financial Guard units, and establishes measures to improve work; it may invite to its working sessions management and specialists from other elements in the Economy and Finance Ministry or from other ministries, departments or public institutes that have fiscal or oversight missions.

Article 4. The Financial Guard Command meets quarterly or whenever necessary to carry out its activity on the basis of action programs.

Article 5. The Financial Guard inspector general has the following primary responsibilities:

(a) he ensures the efficient management of the Financial Guard appartus in accordance with the legal guidelines in force;

(b) he ensures that each subordinate fulfills his mission and applies the stipulations of all laws; he supervises the activities of territorial sections; (c) he carries out hearings or special inspections ordered by the Economy and Finance Minister, by the Guard Command or on his own initiative;

(d) where there are improprieties or irregularities, he takes or orders appropriate measures;

(e) consulting as appropriate with the specialized directorates in the Economy and Finance Ministry, he receives notices and claims regarding abuses of fiscal law, import regulations and trade laws and ensures that they are resolved;

(f) he plans for the resources necessary to carry out activities and he advises the Economy and Finance Ministry management of them in a timely fashion;

(g) he dispatches delegations of his subordinates on missions and special tasks;

(h) he employs and releases Financial Guard personnel and he applies sanctions as prescribed by law with the exception of those in Article 15;

(i) with the approval of the Economy and Finance minister, he establishes the attributes of the rest of the Financial Guard leadership. The inspector general is responsible to the Economy and Finance minister for all Financial Guard activities. Twice annually the inspector general, the Financial Guard chief, will present to the ministry leadership a report on the activities of the Guard during the preceeding six months.

Article 6. The inspector general, the Financial Guard chief, is empowered to devise rules, methods and procedures regarding economic oversight, the reporting of its results and other regulations necessary for the proper execution of the oversight process.

Article 7. The headquarters element and the territorial sections of the Financial Guard are composed of divisions and specialized departments according to the organizational structure approved by the Economy and Finance minister. The inspector general is assisted in his activities by a number of deputies; sections are headed by section chief inspectors, and divisions by division chief inspectors.

Article 8. Financial Guard sections are included in the structure of public finance and state financial oversight general directorates, hierarchically they are subordinate only to the inspector general, chief of the Financial Guard, and they have oversight authority throughout the

judet in which they are located, or throughout the Bucharest municipality or the Ilfov agricultural sector as appropriate.

Financial Guard territorial section inspectors may operate in other counties if so directed by the inspector general or with the approval of the directors general of general directorates of public finance and state financial oversight. In such circumstances, they will communicate their findings to the appropriate director general.

If a task needs to be pursued further or in the case of an oversight investigation that cannot be delayed, Financial Guard personnel may operate in areas under the jurisdiction of other sections, by informing the general directorate of public finance and state financial oversight which is responsible for that territory. Similarly, where Financial Guard personnel are detached to or ordered on a mission within the territory of another section, they have the territorial authority established for that other section. Headquarters Financial Guard personnel may execute financial oversight anywhere in the country.

III. Hiring and Promoting Personnel

Article 9. Hiring, placing and promoting personnel within the hierarchy or within the leadership is based on competitive selection, as prescribed by law. Article 10. The Financial Guard recruits its operational personnel for inspector positions from among Romanian citizens who meet the following conditions:

(a) males, who have satisfied their military obligations, who are operationally qualified, and who are not over 45 years of age;

(b) who have no criminal record;

(c) who are graduates of financial or juridical institutions of higher learning. High school graduates who specialized in economics may be hired for up to 20 percent of the positions, but only when there are no candidates with college educations who can be recruited.

Article 11. Active duty officers and noncomissioned officers whose specialty can preserve the military character of the Financial Guard, may be detached to the guard at the request of the Economy and Finance Ministry, after passing the admissions examination and if approved by the leadership of the ministry to which they belong.

Article 12. Candidates who seek enrollment in the Financial Guard will undergo medical and psychological screening which is organized and conducted by appropriate Defense or Interior Ministry medical units.

Article 13. Candidates who pass the screening tests may take the examinations that are held according to procedures established by the Economy and Finance minister.

Article 14. At enrollment, Financial Guard personnel are required to take the solemn oath prescribed by law, which is signed by the enrollee and becomes part of his personnel record. Headquarters Financial Guard personnel and inspector section chiefs will take their oaths before the Financial Guard inspector general. Personnel enrolled in the county-level Financial Guard sections and the Bucharest municipality will take their oaths before the inspector section chief at a ceremony at which a representative of the inspector general, chief of the Financial Guard, will also participate. Article 15. Naming of assistant inspectors general, inspector chiefs of section and their deputies, and division chiefs will be accomplished by Minister of Economy and Finance order at the recommendation of the inspector general.

Article 16. The transfer, detachment, or delegation of personnel for up to 60 days, and the application of disciplinary sanctions to include the dismissal of personnel, except those named in Article 15, falls within the purview of the inspector general under conditions prescribed by law.

IV. Performance of Duty, and the Rights and Obligations of Financial Guard Personnel in Exercising Their Duties

Article 17. In exercising the powers stipulated in Article 15 of Law No. 30/1991 on the Organization and Operation of Financial Oversight and of the Financial Guard, the Financial Guard apparatus executes:

(a) ordinary duties;

(b) special duties.

Ordinary duties are performed daily or periodically by Financial Guard personnel on the basis of their credentials without requiring special orders, and encompassing powers specified in Article 15, paragraphs (a) and (b) of Law No. 30/1991 on the Organization and Operation of Financial Oversight and of the Financial Guard. Special Duties are executed by Financial Guard personnel only on the basis of orders or special authority given by the Economy and Finance Ministry leadership according to the final paragraph of Law No. 30/1991 on the Organization and Operation of Financial Oversight and the Financial Guard. A minimum of two Financial Guard personnel is required for any investigative activity.

Article 18. According to the provisions of Article 17 of Law No. 30/1991, Financial Guard personnel are empowered:

(a) to effect financial investigations in locations and outbuildings in which goods are produced, warehoused, or sold, or where taxable activities are performed;

(b) to verify the existence and authenticity of documentation during transport as well as in locations where production activities, services, or acts of trade take place when there are indications that financial obligations are being avoided or that illegalities are being committed;

(c) to verify accounting books and other documentation which result from meeting financial obligations;

(d) in accordance with Penal Procedure Code conditions and directives, to carry out searches on public or private property—homes, courtyards, outbuildings, and gardens—if there are indications that hidden goods or hidden production facilities are located there that make

products without meeting fiscal obligations, or where other fiscal fraud is being committed;

(e) in accordance with legal procedures, to confiscate objects or products—corpus delicti—for which taxes and tariffs have not been paid, or the production and sale of which is forbidden, and to remove documents that may serve as proof of the fraud or violations uncovered;

(f) to uncover violations of the law and to apply sanctions according to the authority prescribed by law; to confiscate goods or products that served or were intended to serve the commission of acts which by law allow confiscation;

(g) to inform prosecuting authorities of legal transgressions uncovered during the execution of their duties;

(h) to wear uniforms, to guard, to use and to make use of firearms and other equipment as prescribed by law.

Article 19. Financial Guard personnel have the following principal obligations:

(a) to produce objective and unbiased written documentation on the results of audits and investigations undertaken;

(b) to execute in legal fashion directives received and to inform superiors of the manner in which they are executed;

(c) to guard service classified information as well as confidential information obtained in the performance of duties and not to make that information public except in those cases where the requirements of duty or the needs of justice do not specifically forbid the contrary;

(d) not to demand or to receive anything of value, either in goods or money, nor to create for oneself any sort of advantage in connection with one's duties or in exercising one's position;

(e) to forward all requests and claims relevant to Financial Guard activities up through channels;

(f) to maintain properly all assigned equipment and property;

(g) to respect the demands the state makes on the public servant;

(h) to belong to no party or political organization;

(i) not to consume alcohol during duty hours and not to accept free meals. In exercising their authority, Financial Guard personnel are required to identify themselves in their official capacity in advance and to present their credentials. They must display appropriate conduct, be polite and civil towards the citizenry, and be firm and unyielding towards those who break the country's laws. Failure to fulfill any service obligation will result in disciplinary action, minor fines or penal action, depending on the situation.

Article 20. Special service in territorial units is organized and executed on the basis of written orders from the section chief or, in his absence, from his designated representative. The order will specify the place and time the special service will take place. Inspection results, situations encountered, and measures taken will be recorded in an official inspection report, however unusual situations will be reported immediately through the chain of command. If during the inspection only facts are uncovered that constitute a violation, these are noted in a report of establishing and punishing violations, an example of which is annexed. In such cases, it is no longer necessary to file an inspection report. At the close of a service activity, inspection reports are deposited and recorded at the Financial Guard unit.

Article 21. Personnel on duty are required to execute in a timely fashion all orders and directives received. In cases where there are indications of irregularities or fraud that should be pursued and determined without delay, personnel should immediately report this situation to their supervisors and proceed according to instructions. These situations must be recorded in the inspection report without fail.

Article 22. Financial Guard personnel are obliged to provide the assistance of their specialized inspection methods and procedures to financial inspection organizations and other services of the Economy and Finance Ministry when requested in writing and when approved in advance by the section chief inspector.

Article 23. Inspections in ports and airports, at border control points and of transport vehicles may be undertaken at any hour of day or night and in any situation where goods are found; at economic and commercial businesses, and at warehouses and production lines, inspections should, whenever possible, take place during normal working hours when these entities are in operation, taking into account legal directives currently in effect.

Article 24. If Financial Guard organizations uncover violations for which they have no competence to apply sanctions or confiscate goods, they must prepare acts of preliminary discovery which they will forward to the appropriate organizations for full verification and the application of legal measures. Similarly, if they uncover the commission of deeds or the failure to meet obligations by businessmen or business agents whose activities are being inspected for which the power to apply civil fines belongs to the courts, they will notify the court for the levy of fines only if the law allows such notification to be provided by any interested party. This notification will be based on a report of discovery prepared for this purpose.

Article 25. When Financial Guard organizations uncover legal abuses during their inspections, they may take measures to bring the perpetrators to their own Guard element or to the nearest Guard element, where they will deposit objects retained to clarify the deeds, establish the origin of goods, and complete legal formalities.

Article 26. When Financial Guard organizations uncover deeds that, according to law, are considered

infractions, they will act in accordance with the Code of Penal Procedure, inform competent authorities immediately and turn over the corpus delecti. If, after investigation, it is determined that there was no infraction committed, the corpus delecti, if not returned by the magistrate to the party from whom it was taken but instead was turned over to the Financial Guard for retention, will be returned to the party in question, or the same value returned, depending on the situation, in accordance with established legal norms.

Article 27. Findings by Financial Guard personnel which require the continuation of an audit of a company's financial records for a period more than eight hours, immediately will be brought to the attention of the director general of the general directorate for public finances and state financial oversight who will ensure the continuation of the review by the directorate for state financial oversight or the directorate of taxes and duties, depending upon the nature of the findings. Possible irregularities uncovered will be reported through channels to the inspector general.

Article 28. Financial Guard personnel, within the limits set by law, will cooperate with other specialized state organs with authority in the fiscal domain and customs regulations or in the enforcement of business regulations, to stop any evasion of taxes or duties, contraband activities, or other illegal business practices.

Article 29. Financial Guard Headquarters personnel ensure ongoing supervision of counties and Bucharest Municipality Financial Guard section activities, reporting their findings to the inspector general and suggesting measures to be taken as prescribed by law.

V. Procedures for Determining Actions and Challenging Documents

Article 30. The Financial Guard is empowered to determine offenses and apply the sanctions outlined in Law No. 30/1991 and in other normative acts which regulate oversight, in those cases where it is able to apply them. Documentation on proving and punishing offenses is written in accordance with provisions of the Law On Determining and Punishing Offenses. The official report of the determination and punishment of offenses that, according to law, require either a fine only, or a fine and confiscation, is written separately from an inspection report that requires the application of other measures.

Article 31. A complaint may be filed against an official report on the determination and punishment of offenses, in accordance with the Law on Determining and Punishing Offenses.

Article 32. The complaint is filed at the Financial Guard section, or at the Financial Guard Headquarters to which the agent is assigned, along with a copy of the official report on the determination and punishment of offenses.

Article 33. The complaint along with the case file is forwarded immediately by the Financial Guard section or by the Financial Guard Headquarters to the court in whose jurisdiction the offense was committed. Where a fine was levied on a juridical person, the complaint is resolved by the organ indicated in the law regarding punishment of juridical persons. If the law does not indicate such an organ, the complaint is resolved according to provisions of the Law On Determining and Punishing Offenses.

Article 34. For offenses stipulated in Law No. 12/1990 and republished in 1991, on Protecting the Citizenry From Illegal Commercial Activities, the following special rules will be followed:

(a) When the investigating agent believes that for offenses stipulated in Article 2, Paragraph 1, punishment by fine is insufficient, he will not apply the fine, but instead he will forward immediately an official report of findings to the court in whose jurisdiction the offense was committed;

(b) when an offender intentionally does not pay a fine within 30 days of the deadline for paying the fine, the Financial Guard to which the investigating agent belongs immediately will inform the court in whose jurisdiction the offense was committed, to take the measures prescribed in Article 4 of the law;

(c) for acts listed in Article 1, Paragraphs (l) through (p), which according to Article 5 constitute violations, the reports of findings will be completed according to the instructions in the Code of Penal Procedure, and will be filed with the prosecutor's office as prescribed by law;

(d) as provided in Article 9, in addition to sanctions for the offense, the organization to which the investigating agent belongs may request disciplinary action against the employees of the organization inspected.

Article 35. Measures taken as the result of an inspection, which as established by law are other than minor fines, will be made known to those inspected at their place of business within 30 days of the inspection and may be contested to the inspector general within 30 days of the receipt of the notification. The inspector general will rule on the objections by a decision which will be communicated to the interested parties within 45 days of the receipt of the objection. The inspector general's decision is executory and may be appealed within 30 days of its announcement to the competent court, according to administrative appeal procedures.

Article 36. Reports of Findings concerning violations of tax and duty laws will be communicated immediately to the competent financial organs to be resolved under the conditions and terms established in those rules concerning the respective taxes and duties.

VI. The Use of Firearms and Equipment

Article 38. When, in the line of duty, resistance is encountered or the perpetrators of fraud attempt to escape with the objects or products found in their possession, Financial Guard personnel must resist these attempts using all legal means including the weapons assigned to them. In their activities they may request the

help of the police, or at border crossings, that of the border guards or of organs monitoring border crossings.

Article 39. Financial Guard personnel may make use of firearms, in accordance with the law and in cases of legitimate application, when life or limb is threatened, or against those who resort or attempt to resort to arms in order to thwart identification or establishment of the origin of goods, or to flee the scene of the activity. They may use their firearms after making a legal challenge. A challenge is made by the command, "Halt!," and, if that is ignored, by the command, "Halt or I Will Shoot!" If this does not bring compliance, a shot will be fired into the air. In the event that after making a legal challenge, the person in question still does not comply, firearms may be used against that person. When using firearms, the intent must be to immobilize the person against whom the weapon is used, if possible, by shooting at the legs to avoid killing the person. Failure to respect legal procedures for the use of arms will make the user directly responsible according to the law. Article 40. After the use of firearms, assistance will be given to the wounded to transport the person to the nearest medical facility. A report will be made immediately to the section inspector chief or to the inspector general whichever is appropriate. At the same time, an official report will be prepared describing the circumstances surrounding the use of arms. The report will be forwarded immediately to the prosecutor's office in whose jurisdiction the use of arms occurred.

Article 41. Logistical support to the Financial Guard is provided according to legal norms and based on expenditures approved by the Economy and Finance Minister from the central administrative budget.

Article 42. During duty hours, Financial Guard personnel have the right and duty to wear a uniform with emblems noting rank as well as insignia after the model and under the conditions established in legal norms. In certain situations and at the inspector general's direction, guard personnel may wear plainclothes during duty hours. Additionally, they will bear firearms as well as other articles of self-defense in their equipment, and on duty they will make use of technical devices, organization vehicles, and other means to prevent or uncover fraud.

Article 43. Financial Guard Headquarters and the territorial sections will have a program for the professional and military training of personnel, to include study and discussion of laws, rules, and orders regarding their authority as well as target practice with firearms. Target practice with assigned firearms will take place at firing ranges maintained by Defense or Interior Ministry units, based on agreements signed with the unit commanders.

VII. Final Measures

Article 44. This regulation on the organization and operation of the Financial Guard was approved by Economy and Finance Minister Order No. 1079/1992, and replaces the regulation approved by Order No. 4/1991. It enters into effect on the date of its publication in the Official Gazette of Romania.

Order on Financing of Health Care

93BA0090A Bucharest MONITORUL OFICIAL in Romanian 28 Aug 92 pp 1-3

[Text of government order on financing health care]

[Text]

Based on Article 1, Paragraph (d) of Law No. 81/1992 on the government's authority to issue orders, authorize contracts, and guarantee certain credits, the Romanian Government issues the following order:

Article 1. Health care in Romania is financed from the following sources:

(a) the state budget and local budgets as prescribed by law;

(b) a special health care fund which has the following composition according to the provisions of this order:

—the contributions of juridical and physical persons;

—taxes on activities injurious to health;

—income from activities of health care facilities as set forth in Annex No. 1.

Article 2. Expenditures for health care in 1992 will conform to the provisions of Annex No. 2.

Article 3. In applying the provisions of Article No. 1, the following procedures are established:

(a) juridical and physical persons who employ salaried personnel, monthly must contribute 2 percent of the gross income of the salaried personnel as prescribed by law.

This sum is included in the social security payment;

(b) juridical persons who earn income from tobacco, cigarette, and alcoholic beverage advertising must contribute 10 percent of the value of this income;

(c) juridical persons who earn income from the sale of tobacco, cigarette and alcoholic beverages must contribute 1 percent of this income.

Article 4. Physical persons who are not included in a social security system contribute differently, on the basis of conclusive documentation from financial organizations, as a function of income earned according to the following schedule:

—persons whose income exceeds 50,000 lei gross per month will contribute 4 percent of their income;

—persons whose income is 50,000 lei or less will contribute a sum of 2 percent of their income, but not less than 2 percent of the national average income.

The payment stipulated in Paragraph 1 for each month is due on the tenth day of the following month. It is to be paid at the regional health centers which issue the standard medical permit.

Sums paid to the health centers are transferred to the Ministry of Health.

Article 5. Retirees, the unemployed and persons unable to earn income as well as family members in their care

(children, spouses, pupils and students) and other categories of persons specified by law, on the basis of appropriate documentation, are excused from paying the sums stipulated in Article 4.

Article 6. Salaried employees for whom the 2-percent contribution stipulated in Article 3, Paragraph (a) is paid, as well as persons covered by Articles 4 and 5 are eligible for medical services in public health institutions, as prescribed by law, as well as compensation for the cost of medicines prescribed during outpatient treatment; similarly, they are compensated, according to the law, for the cost of internal medical prosthetic devices and for other medical materials established by the Ministry of Health and the Ministry of Labor and Social Protection, and sold to the population through the country's pharmaceutical network.

Persons described in Article 4 who cannot prove payment of their required contributions will be required to pay for the cost of the medical assistance rendered.

Article 7. The 2-percent contribution due from physical and juridical persons as stipulated in Article 3, Paragraph (a), is transferred to the Ministry of Health on the same date that the payroll is met for the preceeding month.

The payments due from juridical persons stipulated in Article 3, Paragraphs (b) and (c), are transferred quarterly to the Ministry of Health, on the 15th of the month following the close of each quarter. Failure to make full payment is punishable by law.

Failure to make the stipulated payments is penalized by a fine of .2 percent for each day in arrears, but the penalty may not exceed the total of the sum due. The penalty is paid to the Ministry of Health.

Article 8. The income obtained from the payments stipulated in Articles 3 and 4 constitute a special health care fund, to be managed by the Ministry of Health according to the Law for Public Financing.

For the year 1992, the composition of the income and the payments of the special health care fund are established according to Annex No. 2 of this order which becomes Annex No. 4 of Law 62/1992 on the national budget for the year 1992.

Article 9. Special health fund surpluses which remain at year's end will be reported in the following year and used as prescribed by law.

Article 10. The Ministry of Health, with the advice of the Ministry of Economy and Finance, establishes the rates for the medical services outlined in Annex No. 1, which are provided at cost.

Article 11. Supervision of the manner in which the articles of this order are applied is executed by the Ministry of Health through its own organs or through designees named by the Ministry of Health or the oversight organizations of the Ministry of Economy and Finance.

Article 12. The Ministry of Health is authorized to establish norms for implementing this order, with the advice of the Ministry of Economy and Finance.

Article 13. Any existing orders contrary to this present order are abrogated.

Prime Minister Theodor Stolojan

Countersigned: Health Minister Mircea Maiorescu, Labor and Social Protection Minister Dan Mircea Popescu, Economy and Finance Minister George Danielescu.

Bucharest, 21 August 1992

No. 22

Annex No. 1

Income From the Activities of Health Care Facilities

1. Consultations, treatments, examinations, and other such medical care given at out-patient clinics to persons who, according to law, have no right to free care.

2. Medical care given at hospitals at the request of those who, according to the law, have no right to free care.

3. Medical and health services performed in preventive care centers for autonomous entities, businesses, public institutions or other physical or juridical persons, as prescribed by law.

4. Medical or psychological examinations to obtain medical certificates except for temporary absences from work and those requested by the categories of persons stipulated in Article 5 of this order.

5. Community services, treatments and balneophysical therapy performed for persons on rest and treatment contracted for by tourist agencies, and services in balneoclimatic sanitariums, as prescribed by law.

6. Abortions, except for those with medical reasons for abortions, or for those stipulated in Article 5.

7. Income from monthly payments of parents or legal guardians to day care centers.

8. Eight percent of the income earned by pay polyclinics, as prescribed by law.

9. Income from fees for tests and competitive examinations for personnel in health facilities.

10. Income from rents and storage fees.

11. Income from services performed to complete and verify documentation for issuing the registration certificates for medicines.

12. Income from services performed at the "Ana Aslan" National Institute for Gerontology and Geriatrics.

13. Income from fees for medical-legal examinations, as prescribed by law.

14. Income from the activities of research facilities in the public health system.

15. Other incomes from the activities of health facilities except for those resulting from liquidation of fixed assets, fines, and penalities.

Annex No. 2

Budget of the Special Health Fund for 1992

	In thousands of lei
1992 Budget	
TOTAL INCOME	**40,941,730**
Income from this year's 2-percent social security tax	30,973,900
Balance from last year's 2-percent social security tax	2,064,730
Contributions from persons not covered by social security	150,000
Taxes on activities injurious to health and from their advertisement	1,132,500
Income from the activities of health facilities	6,620,600
TOTAL EXPENSES	**40,941,730**
1. Health	29,601,730
Current Expenses	25,601,730
Personnel Expenses	11,626,200
Material Expenses	13,975,530
Capital Expenses	4,000,000
2. Other Social Expenses	11,340,000
Current Expenses	11,340,000
Expenses for repayment of 50 percent of the cost of medicines	11,000,000
Expenses for repayment of 50 percent of the cost of internal medical prosthetic devices and certain medical materials established by the Ministry of Health and sold to the general population	340,000

Law on Privatization

93BA0522A Ljubljana URADNI LIST in Slovene 20 Nov 92 pp 3117-3124

[Text] On the basis of the first paragraph of Article 107 of the Constitution of the Republic of Slovenia, the Presidency of the Republic of Slovenia is issuing a

Decree on Proclaiming the Law on Transformation of the Ownership of Enterprises

The Law on Transformation of the Ownership of Enterprises, which was passed by the Assembly of the Republic of Slovenia at sessions of the Sociopolitical Chamber, the Chamber of Municipalities, and the Chamber of Associated Labor on 11 November 1992, is proclaimed.

No. 0100-109/92

Ljubljana, 11 November 1992

(signed) President Milan Kucan

Law on the Ownership Transformation of Enterprises

I. General Provisions

Article 1

This law regulates the ownership transformation of enterprises with social capital into enterprises with known owners.

Article 2

This law does not apply to:

—enterprises or other legal persons which engage in activity of special social significance or economic public services regulated by law;

—banks and savings banks;

—enterprises whose activity is arranging games of chance;

—enterprises that are transformed under the Law on Cooperatives (URADNI LIST RS, No. 13/92);

—enterprises in bankruptcy proceedings, from the point of a legally valid decision on initiating bankruptcy proceedings onward.

If so specified by a separate law, this law also applies to the transformation of enterprises and organizations in the preceding paragraph of this law.

Regardless of the provision in the first paragraph of this article, this law is used for the ownership transformation of enterprises and other legal persons which conduct newspaper, radio and television, newspaper-agency and film-news activity, except for activities that are defined by law as public services.

The exceptions and restrictions with respect to the possibility of obtaining ownership rights specified in valid laws are taken into consideration in regard to the forms of ownership transformation according to this law, unless this law specifies otherwise.

Enterprise With Social Capital

Article 3

Enterprises with social capital (hereafter: enterprises), according to this law, are socially owned enterprises, enterprises with mixed ownership, and compound forms of enterprises, if they have social capital among the sources of the assets in the balance-sheet.

Organizations of associated labor and work communities that engage in economic activity and have not yet been organized as enterprises are also enterprises with social capital according to this law.

Social capital, according to this law, is the difference between the value of the enterprise's funds (total assets) and the value of the enterprise's obligations, including obligations to legal and physical persons on the basis of those persons' permanent investments in the enterprise and obligations to the claimants in article 9 of this law. Permanent investments, common and preferred stocks or shares that do not belong to any legal or physical person are also social capital.

Article 4

The social capital which is the basis for the transformation of enterprises according to this law is determined by the opening balance in accordance with the methodology prescribed at the proposal of the Agency of the Republic of Slovenia for Restructuring and Privatization (hereafter: the Agency) of the Government of the Republic of Slovenia.

The methodology in the previous paragraph is used to ensure the realistic appraisal of individual fundamental items in the balance-sheet: land, buildings, equipment, nonmaterial investments, inventories, claims and obligations, and also to ensure the exclusion of various fictitious items from the balance-sheet.

An enterprise can also prepare an opening balance on the basis of an appraisal according to the method of the net value of the assets, conducted by authorized appraisers.

Article 5

Before the social capital is determined, the enterprise will set apart from the enterprise's assets the agricultural land and woods that become the property of the Republic of Slovenia or municipalities on the day that this law goes into effect and are transferred in accordance with a separate law to the administration of the Agricultural Land and Woods Fund of the Republic of Slovenia or municipalities, and the value of the real estate of enterprises that engage in tourist activity whose real estate is located on the territory of the Triglav National Park and is to be privatized by a separate law.

An enterprise can continue to use and administer agricultural land and woods if it cultivates or uses them itself and takes care of them like a good manager until the issuance of a legally valid decree on denationalization or until the awarding of a concession or the conclusion of a lease contract in accordance with the law.

A lease relationship is established or a concession is awarded at least for the period that corresponds to the amortization period of investments in the land or permanent gardens. Upon the payment of the lease or compensation for an awarded concession the purchase price for land acquired on the basis of installment payments is taken into consideration in such a way that the lease amount or compensation is reconciled before the settlement of that purchase price.

Application of the Legal Provisions

Article 6

The provisions of this law which apply to stocks in stock companies are also intended to apply to shares in limited-liability companies whenever an enterprise is transformed into such a company.

Article 7

This law applies to all enterprises that are registered on the territory of the Republic of Slovenia.

Article 8

Every ownership transformation of an enterprise according to this law is recorded in a court registry. The document that is the basis for entering the enterprise's ownership transformation in the court registry must have the elements of the document establishing the company into which the enterprise is transformed.

II. Protection of the Rights of Former Owners and Their Heirs

Article 9

This law regulates the protection of claims for the return of property during the processes of the ownership transformation of enterprises which, in accordance with the regulations on denationalization, the regulations on cooperatives, and other regulations that regulate the return of property (hereafter: regulations on the return of property), are submitted by claimants under these regulations (hereafter: claimants) to the enterprises that are transformed according to this law and to their assets.

The provisions of this law do not affect other rights of claimants to the return of property in accordance with the regulations on the return of property.

Article 10

A proposal for issuing a temporary decree on protecting a claim during the processes of the ownership transformation of enterprises is submitted by the claimant to the body which, according to the regulations on the return of property, is responsible for decision-making in the first instance (hereafter: the responsible body).

Article 11

A proposal for issuing a temporary decree is submitted by the claimant to the responsible body within three months at the latest after this law goes into effect. The responsible body has to inform the enterprise and the Agency immediately about the submission of the proposal. The responsible body has to issue the temporary decree immediately and deliver it to the claimant, the Agency, and the enterprise, within two months at the latest after the submission of the proposal.

An appeal against a temporary decree does not delay implementation of the protection in articles 13 and 14 of this law.

Article 12

By means of the temporary decree the responsible body can determine, if probable cause has been shown in substance and scope for the actual and legal grounds of the proposal, that the enterprise or owner of the enterprise is prohibited from controlling the items that are the subject of the protection, and that the partial or full ownership transformation of the enterprise is prohibited.

Article 13

On the basis of the temporary decree, the enterprise has to inventory the items that are the subject of the temporary decree and set them apart from the ownership transformation, and use them like a good manager.

If the application for denationalization is completely or partly rejected by a decree on denationalization, the body responsible for decision-making will decide by means of the same decree that the items in the rejected part of the decree will become the property of the Slovene Republic's Development Fund (hereafter: the Fund).

The Fund is obliged to propose to the court within three months of the date that the decree becomes legally valid that the items in the previous paragraph be sold in a public auction in accordance with the regulations on executive proceedings. The enterprise from which the items were set apart has a preferential right of purchase on equal terms. If the equivalent tolar value of the purchase price is more than 1,000,000 ECU, the Fund is obliged to transfer the purchase price to the funds in accordance with article 22 of this law.

Article 14

Whenever the temporary decree cites the protection of an ownership share in an enterprise's social capital, the enterprise, upon ownership transformation, will issue and transfer to the Fund the common shares in the second paragraph of article 22 of this law in the amount that is specified in the temporary decree, in proportion to the enterprise's value according to the opening balance.

After the decree on denationalization becomes legally valid, the Fund will transfer shares to the claimant in the amount of the granted claim. If the claim is completely or partly rejected by a legally valid decree on denationalization, the Fund can transfer shares in the amount of the rejected part to funds in the manner and in the ratios in article 22 of this law, if their value exceeds half of the value of the enterprise's shares according to the opening balance.

If during the denationalization procedure after the issuance of the temporary decree, the claimant refuses repayment in shares or a share in the enterprise's social capital according to article 40 of the law on denationalization (URADNI LIST RS No. 27/91-I), the responsible body, through the decree on denationalization, also decides that the Fund has to return to the Slovene Compensation Fund (hereafter:

Compensation Fund) the value of the purchase price or shares that corresponds to the value of the Compensation Fund's bonds that the Compensation Fund has issued to the claimant on the basis of the decree on denationalization.

Article 15

Until the decree on the proposal in article 10 of this law is legally valid, the ownership of the enterprise to which the proposal for issuing a temporary decree applies cannot be transformed according to this law in items or an ownership share, unless there is a written agreement with the claimant on setting aside assets or transferring shares to the Fund in accordance with the first paragraph of articles 13 and 14 of this law.

If the claimant, within the period in article 11 of this law, has not submitted a proposal for issuing a temporary decree according to article 10 of this law, the enterprise's ownership can be transformed in accordance with the law. In this case the claimant is only due compensation in the form of bonds from the Compensation Fund or shares owned by the Republic of Slovenia.

Article 16

Whenever the responsible body decides on the amount of the claimant's ownership share in the enterprise's social capital, it will determine the value of this capital on the basis of the value in article 4 of this law.

If the value of the social capital in article 4 of this law has not been determined, the responsible body can determine the value of the social capital with the assistance of the individuals or organizations in the first paragraph of article 38 of this law, according to the methodology and in the manner specified in the third paragraph of article 4 of this law.

The responsible body will also determine the value of the social capital in the manner specified in the previous paragraph if it has grounds to suspect that the value determined in the manner in the first and second paragraphs of article 4 of this law does not correspond to the real value of the enterprise's social capital.

The costs of determining the value in the second and third paragraphs of this article are borne by the enterprise whose ownership is being transformed.

The principles for determining the value of social capital or the enterprise's funds are also intended to be used in deciding on issuing a proposal for issuing the temporary decree in articles 10 and 11 of this law.

III. Ownership Transformation of the Enterprise

Article 17

Transformation of the ownership of an enterprise according to this law (hereafter: transformation of an enterprise) means changing an enterprise with social capital into an enterprise with known owners for the entire permanent capital of the transformed enterprise.

The enterprise will issue shares on the basis of the value in the opening balance.

The costs of the transformation procedure are borne by the enterprise, unless otherwise specified by a contract for the sale of the enterprise.

Article 18

The methods of transforming an enterprise according to this law are:

—transfer of common shares to the funds in article 22 of this law;

—the internal distribution of shares;

—the internal purchase of shares;

—the sale of shares in the enterprise;

—the sale of all the enterprise's funds;

—transformation of the enterprise through an increase in the ownership capital;

—the transfer of shares to the Fund.

Article 19

The enterprise will choose a method or combination of methods for transformation in accordance with this law.

The enterprise will carry out the transformation in accordance with a transformation program adopted by the enterprise's administrative body and submitted to the Agency for approval. Within a period of 30 days after receiving the program the Agency can reject it in writing, if it determines that the program is not appropriate or the chosen method or combination of methods is not in accordance with this law. It is considered that the Agency has approved the program if it does not reject it within the period of 30 days after receipt.

Whenever the enterprise's administrative body in the previous paragraph decides on the complete sale of the enterprise or on transformation through the sale of all the enterprise's assets, the enterprise's workers participate in adopting a program for transforming the enterprise in the manner provided in article 35 of the law on labor relations (URADNI LIST RS No. 14/90 and 5/91) for the adoption of programs for dismissing surplus workers.

The transformation program includes primarily: a description of the methods for the transformation of the enterprise or their combination, the preliminary financial and organizational restructuring of the enterprise, the projected method for the sale of the enterprise (public collection of bids for the purchase of shares or assets, the public registration of shares, a public auction of the shares or assets, direct sale, etc.) and standards for the selection of bidders.

More precise regulations for preparing a transformation program and for implementing individual methods of transformation according to this law will be issued at the proposal of the Agency by the Government of the Republic of Slovenia within a period of 60 days after this law goes into effect.

By means of the transformation program, the enterprise's administrative body must give written notice to employed

workers, creditors to which it has long-term obligations, and claimants who have insured their claims in accordance with this law.

The public must be informed of the contents of the approved transformation program by publication in URADNI LIST REPUBLIKE SLOVENIJE within a period of 30 days at the latest after approval.

Article 20

The enterprise will carry out transformation in accordance with the adopted transformation program and submit an application for entry in the court registry within a period of 12 months at the latest.

The transformation is carried out as of the day of entry in the court registry.

Before entry in the court registry, the enterprise must obtain the Agency's consent. The enterprise must attach to the request for consent the documentation prescribed by the Agency after prior approval from the Government of the Republic of Slovenia within a period of 60 days after this law goes into effect.

The Agency will issue written approval for the transformation or refuse to issue it within a period of 30 days from receipt of the complete application.

If the value of the shares in an enterprise that is being sold to a foreign buyer or a domestic legal person with majority foreign capital exceeds the equivalent tolar value of 10,000,000 ECU, the sale, at the proposal of the Agency, is approved by the Government of the Republic of Slovenia on the basis of the Republic of Slovenia's strategy for foreign investments.

If the enterprise does not carry out the transformation in the first paragraph of this article, the authority with respect to the selection and implementation of transformation procedures according to this law will pass to the Agency.

Article 21

The enterprises in article 3 of this law and enterprises with majority ownership by those enterprises can participate in the transformation processes of other enterprises according to this law only after prior approval by the Agency.

Transfer of Common Shares to Funds

Article 22

The enterprise will issue common shares for the social capital and use them to transfer:

—10 percent of the social capital to the Capital Fund for Pension and Disability Insurance (hereafter: Pension Fund);

—10 percent of the social capital to the Compensation Fund;

—20 percent of the social capital to the Fund for the purpose of further distribution to authorized investment companies.

Common shares, according to this article:

—give the right to management, in such a way that each share carries one vote;

—give a proportional right to a dividend;

—are made out to a name;

—are transferable;

—have a nominal value that is a multiple of the number 10;

—upon the bankruptcy or liquidation of an enterprise, give the right to payment of a proportional part from the bankruptcy or liquidation amount.

In the event that within the period specified in this law, the enterprise is sold in its entirety according to article 26 or 27 of this law, the Fund will transfer 10 percent of the purchase price to the Pension Fund and 10 percent of the purchase price to the Compensation Fund, and 20 percent of the purchase price to authorized investment companies.

In the event of partial sale of the enterprise or a combination of transformation methods, the enterprise and the Fund have to transfer common shares or the purchase price to the funds in the ratios in the first paragraph of this article.

Within the period of three years after this law goes into effect, the common shares in the second paragraph of this law cannot be transferred or sold to a foreign legal or physical person or to a domestic legal person with majority ownership by foreign persons, except with the Agency's consent on the basis of the Republic of Slovenia's strategy for foreign investments.

Internal Distribution of Shares

Article 23

An enterprise can distribute common shares, for at most 20 percent of the value of the social capital according to the opening balance, to the enterprise's employees, former employees, and retired workers.

The shares in the first paragraph of this article are made out to a name and are nontransferable for two years after their issue, except through inheritance.

The rest of the shares, up to 20 percent of the value of the social capital in the first paragraph of this article, that have not been distributed, can be exchanged by the enterprise on the basis of an internal announcement for the certificate of employee's close family members, or are transferred to authorized investment companies.

Employees in companies with majority ownership by the enterprise that distributes the shares according to this article also have a right to the shares in the first paragraph of this article.

The enterprise will distribute shares to employees in exchange for the ownership certificates in article 31 of this law.

If the employees offer the enterprise ownership certificates with a value that exceeds 20 percent of the value of the social capital according to the opening balance, the excess certificates can also be used for the internal purchase of shares.

Internal Purchase of Shares

Article 24

All the enterprise's employees, former employees, and retired workers have a right to purchase shares according to the second paragraph of article 25 of this law.

The right to purchase shares according to the second paragraph of article 25 of this law is also possessed by employees and retired workers in companies with a headquarters in the Republic of Slovenia with majority ownership, on the basis of common shares, by the enterprise that is being transformed through the internal purchase of shares in the enterprise.

The purchase of shares on behalf of the claimants in this article will be conducted by the enterprise.

Article 25

In the internal purchase of shares, the enterprise will first of all transfer shares to the funds in article 22, and conduct an internal distribution of shares according to article 23 of this law.

The enterprise will transfer common shares to the Fund for the social capital specified in the internal purchase program. The enterprise must immediately buy back from the Fund 20 percent of the shares transferred according to this paragraph. The value of the shares in the internal purchase program is determined on the basis of the value from the opening balance, or on the basis of an appraisal according to the method of the net value of the assets, with a 25 percent discount taken into consideration in buying them back. The opening balance and the appraisal according to the method of the net value of assets are revalued by the retail price index before the day that the shares are deposited. More than one-third of the enterprise's employees have to participate in the purchase.

During the next four years, each year the enterprise has to buy back from the fund at least one-fourth of the shares in the previous paragraph at their nominal value, revalued by the retail price index before the day that the purchase price is paid to the Fund. The shares are purchased by the enterprise on behalf of employed workers out of the part of the profits that belongs to the employees, wages, and other funds of the employed workers that the latter invest in the enterprise. The Fund will reduce the price of the shares that the enterprise buys back that year according to the program by the value of the profit that belongs to the Fund over 2 percent of the value of the dividend.

The Fund does not exercise voting rights for the unpurchased shares in the previous paragraph of this law except in decisions on the division, annexation, merger, and termination of the enterprise, in increasing and decreasing the capital, and in the sale, investment, or lease of a considerable part of the assets.

The payment to the enterprise for the purchase of the shares before transformation is revalued from the date of the payment to the date of the purchase by the rate of retail price growth and bears interest at an 8 percent annual interest rate.

If the enterprise does not buy back shares in accordance with the internal purchase program during the current year, the Fund can exercise full voting rights and freely control the shares.

The payments for shares according to the second paragraph of this law are:

—monetary payments;

—the calculated but not yet paid portion of personal incomes, after the settlement of taxes and contributions from personal incomes, if the employees agree with this;

—payments to the enterprise for the purchase of shares before transformation;

—an exchange of bonds or other securities for shares, if the enterprise's administrative body agrees with this and if the owner of the security so decides;

—an exchange of excess ownership certificates, in accordance with article 23 of this law.

Claimants deposit shares in the enterprise.

The enterprise will forward the purchase price in cash to the Fund before the transformation is entered in the court registry. Confirmation of payment to the Fund is a condition for entering the transformation in the court registry.

The enterprise may not give loans or any sort of guarantees to employees for the purchase of common shares.

Sale of the Enterprise's Shares

Article 26

Whenever the sale of the enterprise is conducted as the entire or partial sale of shares in the enterprise to domestic or foreign persons, the sale is conducted on the basis of a public announcement through the collection of bids, through the public sale of shares, or at a public auction, on the basis of the value from the opening balance or the appraised value of the enterprise revalued with the retail price index up to the day of the announcement, sale, or auction. Citizens of the Republic of Slovenia have prepurchase rights under equal conditions.

The Fund will conclude a sales contract after the enterprise transfers the common shares in article 22 of this law to it. The purchase price belongs to the Fund.

Article 27

Whenever the sale is conducted as a sale of all the assets, the contract is concluded by the Fund, to which the enterprise first transfers the enterprise's entire social capital. The enterprise ceases to exist as of the day specified by the sales contract, and is deleted from the court registry. The Fund will assume all the enterprise's obligations.

On the day that the enterprise ceases to exist, the same legal consequences ensue for the enterprise's workers as at the beginning of bankruptcy proceedings. The sales contract can specify the rights of workers to be employed by the buyer or elsewhere, and other rights.

The Fund will send the contract for the sale of the assets to the court, which will delete the enterprise from the court

registry and announce the deletion in URADNI LIST REPUBLIKE SLOVENIJE at the Fund's expense.

Whenever the sale of the enterprise is conducted as a sale of all the assets, the enterprise does not need to prepare the opening balance in article 4 of this law.

The funds of the purchase price according to this article are used specifically for active employment policy measures.

Transformation of the Enterprise by Increasing the Ownership Capital

Article 28

An enterprise can be transformed by increasing the ownership capital on the basis of the opening balance or according to the appraised value of the enterprise, if in doing so the ownership capital is increased by more than 30 percent of the enterprise's existing ownership capital according to the opening balance or the appraised value of the enterprise.

The methods of paying for shares in this method of transformation are:

—monetary payments;

—the calculated but still unpaid portion of personal incomes after the settlement of taxes and contributions from personal incomes, if the employees agree with this;

—payment to the enterprise for the purchase of shares before transformation;

—an exchange of bonds or other securities for shares, if the enterprise's management body agrees with this and if the owner of the security so decides;

—an exchange of the enterprise's obligations for shares, if the administrative body and the creditor agree with this;

—by payment in the form of items and rights at their assessed value.

The buyers pay the purchase price to the enterprise. The enterprise can use the purchase price only for investments in fixed assets or for the repayment of the enterprise's long-term obligations.

Payment to the enterprise for the purchase of shares before transformation is revalued from the date of the payment to the date of the purchase by the rate of retail price growth and bears interest at an 8 percent annual interest rate.

An enterprise may not give loans or any sort of guarantees for transformation by this method.

Transfer of Shares to the Fund of the Republic of Slovenia for Development

Article 29

The enterprise will transfer the shares that are left over after it has carried out the transfer, distribution of shares, and sale according to the provisions of articles 22, 23, 25, and 26 of this law to the Fund as preferred shares or as common shares according to this law. The enterprise's administrative body will decide on the type of shares to be transferred to the Fund.

Article 30

A preferred share:

—is made out in the Fund's name;

—is cumulative;

—gives a preferential right to a fixed dividend in the amount of 2 percent annually before the payment of dividends for common shares;

—is participative (if the common share's dividend exceeds the fixed dividend, the participative preferred share yields the same dividend as the common share);

—has a nominal value that is a multiple of the number 10;

—gives a voting right in proportion to the share in the enterprise's capital in decisions on the division, annexation, merger, and termination of the enterprise, on increasing and decreasing the capital, and on the sale, investment, or leasing of a considerable part of the assets, but it does not give a right to make proposals on these issues; it does not give voting rights on other issues;

—upon bankruptcy or liquidation, gives a right to proportional payment before payment to common shareholders.

In buying back the preferred or common shares transferred to the Fund in accordance with article 29 of this law, the enterprise has a prepurchase right that it can invoke within the period of 45 days after the receipt of notification about a possible sale. In this case the shares bought back in that way are withdrawn and cancelled.

IV. Ownership Certificates

Article 31

Ownership certificates are issued to citizens of the Republic of Slovenia born before the date that this law goes into effect, for the free distribution of part of enterprises' social capital.

The owner can use an ownership certificate:

—for acquiring shares or stocks in an enterprise where he is or was employed, as part of the internal distribution of shares (article 23 of the law);

—for acquiring shares in authorized investment companies (article 36 of the law);

—for purchasing shares in enterprises that are transformed through the public sale of shares;

—for purchasing shares or other property of the Republic of Slovenia and enterprises owned by it that is offered to the public for purchase in exchange for ownership certificates.

The ownership certificates will be issued by the Republic of Slovenia with a total value of 40 percent of the entire social capital of the enterprises in the Republic of Slovenia whose ownership is being transformed. The ownership certificate will be issued in the following nominal values:

—in the amount of 200,000 tolars to those who have not yet been employed;

—in the amount of 250,000 tolars to those who have up to 10 years of work experience when this law goes into effect;

—in the amount of 300,000 tolars to those who have from 10 to 20 years of work experience upon the promulgation of the law;

—in the amount of 350,000 tolars to those who have from 20 to 30 years of work experience upon the promulgation of the law;

—in the amount of 400,000 tolars to those who have more than 30 years of work experience upon the promulgation of the law.

The Government of the Republic of Slovenia will prescribe more detailed guidelines for issuing and distributing ownership certificates to citizens and for their use.

V. Fund of the Republic of Slovenia for Development

Article 32

The Fund of the Republic of Slovenia for Development, in accordance with this law, manages and controls the shares and other securities that it acquires in transformation proceedings.

The powers, rights, obligations, and responsibilities of the Fund are regulated by a separate law.

Article 33

Liquid or monetary funds and revenues from managing the securities that the Fund acquires in transformation proceedings under this law are used in accordance with a separate law for the financial rehabilitation of enterprises and the economy and of banks, for encouraging and financing exports, for technological and development projects and ecological investments, for the development of small business, for the payment of war compensation, especially to interned and exiled individuals, for investments in the public sector of the economy, and for creating an economic basis for indigenous ethnic communities.

In accordance with a separate law, the following are to be established within the framework of the funds specified in the first paragraph:

1. an ecological development fund;

2. a technological development fund;

3. a fund for the payment of war compensation.

VI. Authorized Investment Companies

Article 34

Authorized investment companies are stock companies regulated by a separate law.

Article 35

The Fund will transfer the enterprise shares acquired according to article 22 and the third paragraph of article 23 of this law to authorized investment companies in accordance with this law and the regulations which regulate those companies within three months at the latest after the establishment of those companies.

Article 36

The authorized investment companies, on the basis of the value of the property received, issue shares and distribute them to citizens in exchange for ownership certificates. Undistributed shares in authorized investment companies will remain the property of the Republic of Slovenia.

The Agency will prescribe more detailed guidelines for carrying out the gratis distribution of shares in authorized investment companies to citizens of the Republic of Slovenia.

VII. Agency of the Republic of Slovenia for Restructuring and Privatization

Article 37

The Agency of the Republic of Slovenia for Restructuring and Privatization performs professional and technical work during the processes of transforming the ownership of enterprises, and exercises public authority in accordance with the law.

The powers, rights, obligations, and responsibilities of the Agency are regulated by a separate law.

The decisions issued by the Agency during transformation proceedings are final. An administrative appeal against them is possible.

Article 38

The value of the enterprise is appraised by individuals or organizations to which the Agency issues a license (hereafter: authorized appraiser).

The Agency prescribes the conditions and procedure for obtaining a license to appraise the value of enterprises.

The appraisal of the value of enterprises must be in accordance with the standards and principles for appraising the value of enterprises that are prescribed by the Agency.

VIII. Slovene Compensation Fund

Article 39

The Slovene Compensation Fund, established by a separate law, will acquire 10 percent of the value of an individual enterprise in shares or in the purchase price in accordance with article 22 of this law. Other sources of funds and the organization, powers, rights, and obligations of the Compensation Fund are regulated by a separate law.

IX. Capital Fund for Pension and Disability Insurance

Article 40

The Capital Fund for Pension and Disability Insurance, established by a separate law, will acquire 10 percent of the value of an individual enterprise in shares or in the purchase price in accordance with article 22 of this law. Other sources of funds and the organization, powers, rights, and obligations of the Pension Fund are regulated by a separate law.

X. Liquidation and Bankruptcy

Article 41

In the event of the liquidation or bankruptcy of an enterprise before its ownership transformation, after the final

proceedings the remainder of the property, in the proportion of social capital in the enterprise's permanent assets, will be transferred to the Fund.

XI. Transformation of Enterprises With Foreign Capital

Article 42

Enterprises that operate with foreign capital as enterprises with mixed ownership are transformed with the agreement of the foreigner, but within one year at the latest after this law goes into effect. If an agreement is not reached within that period, authority with respect to choosing and carrying the transformation procedure according to this law will be transferred to the Agency.

XII. Punitive Provisions

Article 43.

An enterprise will be punished for an economic violation with a monetary fine of at least 2,000,000 tolars:

—if it does not inventory and set apart assets and real estate in violation of the first paragraph of article 13 of this law on the basis of a temporary decree;

—if it does not transfer common shares to the Fund in violation of the first paragraph of article 14 of this law on the basis of a temporary decree;

—if it does not issue and transfer the percentages of common shares specified by the law to the Compensation Fund, the Pension Fund, and the Fund in violation of article 22 of this law;

—if it does not forward the purchase price to the Fund before the transformation is entered in the court register, in violation of the ninth paragraph of article 25 of this law;

—if it does not transfer preferred or common shares to the Fund upon transformation, in violation of article 29 of this law;

—if, without the Agency's consent, it controls assets of higher value when that exceeds the framework of the enterprise's regular operation, in violation of the second paragraph of article 44 of this law;

—if it does not bring ownership relations into accordance with this law, in violation of the first paragraph of article 45 of this law;

—if it does not deliver reports to an auditing body with a list of the procedures and documents on property transformation procedures that have been conducted, in violation of the fifth paragraph of Article 49 of this law.

The responsible person of a legal person which commits an act under this article will be also punished with a monetary fine of at least 125,000 tolars for an economic violation in the first paragraph of this article.

XIII. Transitional and Final Provisions

Article 44

As of the date that this law goes into effect, all changes in status are prohibited until an enterprise is transformed in accordance with this law.

Until an enterprise is transformed in accordance with this law, it can sell, invest, or in any way control assets of higher value if this exceeds the framework of the enterprise's regular operation, only with the prior consent of the Agency.

The assets are considered to be of higher value if one or several smaller transactions during the accounting year exceed the equivalent tolar value of 100,000 ECU or 10 percent of the book value of the enterprise's social capital.

Article 45

Enterprises that have been transformed into capital companies by issuing internal shares or stock certificates in accordance with the Law on Social Capital (URADNI LIST SFRJ No. 84/89 and 46/90) must, within a period of three months after this law goes into effect and before the initiation of transformation according to this law, prepare a program for bring ownership relations into accordance with this law with respect to discounts, the method of payments made, and proportionate management rights with respect to the appraised value of the social capital.

An enterprise cannot initiate the procedure of transformation according to this law unless it first obtains the Agency's consent on the coordination of ownership relations according to the previous paragraph of this article. The Agency, before issuing its consent, can request a review of the enterprise's operation and the transformation procedures to date.

Any control of the enterprise's social capital in the first paragraph of this article, from the date that this law goes into effect until the coordination of ownership relations according to this article, is null.

Article 46

During the transformation of enterprises that have ownership shares in other enterprises or shares in other enterprises headquartered in the Republic of Slovenia, the Agency can request that the enterprise include in its privatization program the employees at the enterprises in which it has shares or ownership shares, and that they give their consent for the enterprise's privatization program.

If, before this law goes into effect, the enterprise has issued preferred shares for social capital that exceed one-fourth of the enterprise's permanent resources, the Agency can request that the workers employed in those enterprises also participate in adopting the ownership transformation program in article 19 of this law.

Article 47

Enterprises in which other legal persons, in accordance with the Law on Associated Labor (URADNI LIST SFRJ No. 53/76, 57/83, 85/87, and 40/89), have pooled, invested, or transferred funds with an obligation to repay the funds or

share the profits, must regulate these relationships by contract before transformation according to this law.

Legal persons which operate with social capital and which were established by businessmen and civil legal persons in accordance with the Law on Establishing Work Organizations that Are Established by Businessmen and Civil Legal Persons (URADNI LIST SRS No. 17/88) are transformed according to this law into capital companies, in such a way that the founder of such a legal person becomes the owner of the company, if the document establishing that legal person shows that all the funds for its establishment and operation were the founder's own funds. For entering the transformation into the court registry, the enterprise will only submit the document on the transformation.

Enterprises which administer assets financed on the basis of contracts by physical and legal persons are transformed according to this law into capital companies. Individual co-investors are awarded co-ownership of the company in proportion to their investment.

Article 48

Before the beginning of the transformation, at enterprises or at enterprises dependent upon them or linked with them which, during the period from 1 January 1990 until this law goes into effect, have changed their status in any way, reorganized, transferred social capital gratis or established and invested in new enterprises, or transferred individual business functions to other enterprises, a financial, accounting, and legal review is to be conducted and the legality and propriety of operation is to be verified (hereafter: audit procedure), if there are grounds to suspect that in so doing social property has been harmed.

The audit procedure is conducted if the proposers feel that there are grounds to suspect that social property has been harmed, especially if there has been:

—a reduction of the enterprise's property;

—purchase of the enterprise or part of the enterprise or transformation by an increase in ownership capital by the employees or some of the employees in that enterprise, their family members, or third parties on the basis of loans without revaluation or with an initial moratorium on the repayment of the principal or with a guarantee, or on the basis of the enterprise's deposit;

—a transfer of business functions and performance to one or several enterprises that are under the ownership control of or are partly or fully owned by employees, their family members, or other legal or physical persons (bypass enterprises);

—the establishment of an enterprise with private or mixed ownership, if the founders or co-founders were a worker or workers of the enterprise or their family members;

—the partial or complete sale of the enterprise;

—the conclusion of harmful contracts or other legal transactions and actions on the basis of which social property has been harmed;

—the implementation of ownership transformation on the basis of the issue of preferred shares for social capital;

—statutory provisions or provisions in a founding contract or other normative documents on the basis of which individual groups or individuals were ensured unjustified advantages;

—gratis transfers of social capital, or

—if funds have been invested or new enterprises have been founded with mixed ownership and management and other relationships that do not correspond to the proportional share of the invested capital.

Article 49

The audit procedure will be conducted in control proceedings by the Public Auditing Service of the Republic of Slovenia (hereafter: the auditing body). The implementation of audit procedures will be prescribed by the Government of the Republic of Slovenia.

Within a period of two months after this law goes into effect, an audit procedure can be requested by internal affairs bodies, the public prosecutor, the public legal defender, the social legal defender of self-management, the Agency, the Fund, the Compensation and Pension Funds, the claimants in article 9 of this law, the assemblies of sociopolitical communities, and the Assembly commissions for the transformation of social and cooperative property and for the comprehensive study of the environment, consequences, and occurrences of harm to social property, the latter two of which have investigative authority in these cases. After the State Assembly is constituted, a new State Assembly commission designated for this will assume the authority of these commissions. The auditing body in the previous paragraph can also initiate the procedure in accordance with its official duties.

The initiative for the audit procedure can be submitted to the bodies in the previous paragraph by the claimants in article 9 of this law, trade unions, and anyone who thinks that social property has been harmed during the processes of the ownership transformation of enterprises in the previous article.

The auditing body must begin the audit procedure within three months at the latest after this law goes into effect. The auditing body must immediately give notification of the initiation of the audit procedure to the enterprise and the Agency, which may not issue its consent to the transformation program in article 19 of this law or its consent to the transformation in article 20 of this law until the audit procedure has been concluded.

The enterprises in the previous paragraph at which the audit procedure is under way, are obliged to provide the auditing body immediately, at its request, a report with a list of the procedures and the documents on ownership transformation procedures that have been carried out.

Article 50

The auditing body will inform the enterprise, the Agency, the social defender of self-management, the responsible public prosecutor, and the responsible internal affairs body

and the bodies in the second paragraph of the previous article that submitted the request for the audit procedure about the results of the audit conducted.

If the social defender of self-management, during the next 30 days after receiving the audit report, thinks that social capital has been harmed during the ownership transformation procedures to date or in the reorganization or operation of the enterprise, he must begin appropriate proceedings to contest or determine the invalidity of individual actions or contracts concluded to the detriment of social capital. He must immediately give written notification of his decision to the enterprise, the Agency, and the registry court, which will record the procedure of contesting or determining invalidity in the court registry.

If the social defender of self-management begins proceedings before the court to determine the invalidity or to contest individual actions or contracts, any control by the enterprise of assets of greater value and the enterprise's social capital is invalid until there is a legally valid decision by the court. Until the dispute is settled before the court, it is not possible to begin or continue any status transformation, unless the enterprise brings its past procedures and contracts into accordance with the requests of the social defender of self-management and the Agency.

If it is not possible to coordinate these relationships or if the enterprise cannot start or continue ownership transformation in accordance with the previous paragraph before the expiration of the deadlines in article 20 of this law, the enterprise will be fully transferred to the ownership and management of the Fund.

If the social defender of self-management thinks, on the basis of the audit report, that social property has been harmed during the enterprise's ownership transformation procedures to date, reorganization, or operation, or if the social defender of self-management does not initiate appropriate proceedings within the deadline in the second paragraph of this article, he will immediately give notification of this to the Agency and the enterprise, which can continue the ownership transformation procedures.

In the cases in the previous paragraph, the period in article 20 of this law will begin on the date of receipt of the report that the enterprise can continue the ownership transformation procedure.

Article 51

On the date that this law goes into effect, the Law on Social Capital (URADNI LIST SFRJ No. 84/89 and 46/90) and article 36 of the Law on Enterprises (URADNI LIST SFRJ No. 77/88, 40/89, 46/90, and 61/90) will cease to be valid, and article 145.b of the Law on Enterprises does not apply to social and mixed enterprises for controlling social capital.

During the procedure for the transformation of enterprises, enterprises, with the Agency's consent, can also include nonrepayable transfers of funds and social capital in the transformation program in article 19 of this law.

Article 52

The periods in this law will begin to pass after the expiration of six months from the date of the law's promulgation, except for the deadlines in article 11, the fifth paragraph of article 19, the third paragraph of article 20, the third paragraph of article 45, and article 49 of this law, which begin to pass on the date that this law goes into effect.

Regardless of the previous paragraph of this article, in the event that the Law on Economic Companies has not been passed within six months of the date that this law goes into effect and all the regulations that the Government of the Republic of Slovenia is to adopt according to that law have not been adopted, the periods will begin to pass as of the date that the regulations in articles 4, 19, 31, and 36 of this law go into effect.

Article 53

This law goes into effect on the 15th day after its publication in URADNI LIST REPUBLIKE SLOVENIJE.

No. 300-01/90-6/47 Ljubljana, 11 November 1992

Assembly of the Republic of Slovenia

(signed) Dr. France Bucar, Chairman

Macedonia

Program To Prevent Spread of AIDS

93WE0187A Skopje SLUZBEN VESNIK in Macedonian No 40, 4 Jul 92 pp 705-711

[Program for the Protection of the Population in the Republic of Macedonia From the Acquired Immune Deficiency Syndrome for 1992; signed by Prime Minister Doctor Nikola Kljusev under No. 21-1883/1, 23 June 1992, Skopje]

[Text] In accordance with Article 6, Paragraph 3 of the Law on the Protection of the Population From Communicable Diseases Threatening the Country (SL. LIST NA SFRJ, Nos. 51/84 and 63/90), and Article 3, Paragraph 2, and Article 6, Paragraph 3, of the Law on the Protection of the Population From Communicable Diseases (SLUZBEN VESNIK NA SRM Nos. 18/76, 18/82, and 37/86), the government of the Republic of Macedonia has drafted a *program for the protection of the population in the Republic of Macedonia from the Acquired Immune Deficiency Syndrome [AIDS] for 1992.*

1. Purpose of the Program

The purpose of the program is the intensive implementation of measures and activities aimed at preventing and controlling AIDS in the Republic of Macedonia, and, at the same time, applying the concepts and trends adopted by the World Health Organization [WHO].

The program will be implemented by the health institutions in the Republic in collaboration with the education authorities and institutions, the Red Cross, and the public information media—the daily press, radio, and television—and in cooperation with other Republic and health institutions and the Macedonian Red Cross Association.

Specially programmed epidemiological, serological, and clinical studies will be made in the Republic on an organized basis; data will be collected on the outbreak and epidemiological characteristics of destructive disease with a view to determining the spreading of the asymptomatic presence of the HIV virus among the population.

Steps to prevent infection, spreading, and for controlling the disease will be formulated, taken, and monitored.

An active method of work will be introduced on all levels with a view to educating and familiarizing with the disease not only the health, education, and other cadres, but also the entire population and, especially, the high-risk groups. The target is for every individual to become involved in protecting himself, his relatives, and his surroundings, for there is neither a cure nor a vaccine against that disease, and those infected with it are infected for life; 50 percent of those infected become sick and die within a period ranging from several months to three years.

Those infected with the disease and the carriers of the HIV virus, as well as the sick, must be identified actively and at an early stage; the former must be kept under epidemiological supervision, while the latter must be hospitalized and treated.

A. Steps and Activities for the Implementation of the Program

1. Basic Health Protection and Hygiene-Epidemiological Activities on Republic Territory

In accordance with the recommendations of the WHO and the Yugoslav Plan for the Prevention and Control of AIDS in Yugoslavia, and our practical experience in the implementation of Republic programs, this program will include the following measures and activities:

—A system of programmed epidemiological testing and monitoring;

—Laboratory testing;

—Educating and informing health workers;

—Engaging in preventive efforts among the general public and, especially, the high-risk population groups, and providing health education.

System of Programmed Epidemiological Testing and Monitoring

Monitoring the epidemiological situation throughout the world and in our country, as well as global and domestic achievements in that area;

Monitoring the implementation of pertinent legal stipulations and expert instructions;

Organizing the epidemiological testing and prompt identification of AIDS patients and individuals infected with the AIDS virus, primarily among high-risk population categories;

Organizing the health supervision of patients and people infected with the AIDS virus, and epidemiological research that must include monitoring their state of health, testing people around them and their contacts (sexual partners; closer family members, especially children; drug abusers), taking blood samples for laboratory testing, and respecting the confidentiality of the measures;

Testing hospitalized patients on the basis of epidemiological indications;

Organizing the treatment of the sick in proper medical facilities;

Identifying and publicizing the names of individuals who have become infected or are sick or have died from AIDS, and keeping a special identification record of said individuals. Individual public announcement will be based on the manifestation of the disease: dying from AIDS—in three copies, confidential, in a sealed envelope, which will be supplied by the medical institution that will ratify carriers of antibodies of the AIDS virus, illness or death caused by AIDS, addressed to the Republic Health Protection Institute, with the initials of the individual and the status code.

The Republic Health Protection Institute in Skopje will submit the information to the Union Health Protection Institute and will draft proper notifications concerning those infected, the sick, and those who have died of AIDS, in accordance with the requirements of the WHO, directed to the Union Institute and the Republic's authorities.

Laboratory Testing

Blood tests for determining the presence of antibodies of the AIDS virus will be made in the medical facilities indicated by the Republic authority in charge of health protection;

The testing will be done with the ELISA [Enzyme-Linked Immunosorbent Assay] and other successful methods, use of immunofluorescent tests, and others; if the results are positive, the test will be repeated. Should the second test also prove to be positive, the Western blot test will be used for confirmation purposes;

A mandatory blood test will be made for the presence of antibodies of the AIDS virus separately for each dose of blood for transfusion and for organ and tissue transplants.

Informing and Training of Health Workers

Broadcasts, expert meetings, and seminars will be organized to instruct and inform health workers in the Republic. The health personnel will be regularly informed of the epidemiological condition throughout the country and the world and of the medical achievements in the struggle against AIDS, as well as of expert conclusions.

Special instruction and information activities will be carried out among health workers engaged in diagnosing and in prevention work and treatment provided by various groups of involved individuals (neuropsychiatrists, dermatology and venereal-disease specialists, infection disease specialists, laboratory workers, and others).

Instructing and training paramedical personnel who, by virtue of the nature of their work, are in contact with infected individuals or are involved in informing the population about AIDS.

On the basis of special AIDS programs, the Republic health institutions will draft basic regulations regarding laboratory activities, treatment, hospitalization, health education, and other activities aimed at the prevention of AIDS, in accordance with the respective achievements and practical experience acquired in the rest of the world. In this connection, timely information and expert instructions will be issued to the health workers, including leaflets, pamphlets, specific health education broadcasts, and publications in the periodical NARODNO ZDRAVJE.

Health-Education Activities

Bearing in mind that the only efficient method for preventing the spreading of the infection with the AIDS virus is providing full information on the nature of this infectious disease, the ways of its spreading, and the ways of protection from it, health information and education are mandatory steps that will be implemented in all environments.

In addition to the health workers, who will provide health education, other education workers will be given special training. This will apply to Red Cross education activists, media information personnel, and others.

The content and means of information will be adapted to the environment in which health education work will be done, and the age and degree of general and health knowledge.

Health education will include primary education schools, based on the Program for the Health Education of Children in Eighth-Grade Schools for Preventing and Stopping the Spreading of AIDS that will be included in the respective instruction programs.

The following steps will be taken to provide the population with the broadest possible information:

—Suitable broadcasts will be produced for worker and other organizations and unions;

—There will be permanent sections in the daily press that will provide information on the epidemiological condition, advice, new developments in medical advances, a variety of announcements, questions and answers, and so on;

—Cooperation with the radio and television in developing information and health-education broadcasts, including spot announcements;

—In work with particularly risky population groups, special educational methods will be used, based on the specific nature of these groups (drug addicts, delinquents, prostitutes, workers in high-risk infection areas, and others);

—Health education activities will be promoted, especially aimed at individuals infected with the AIDS virus.

In cooperation with the Macedonian Red Cross, the Republic medical institutions will coordinate health education activities throughout the Republic through:

—Joint standardized leaflets providing basic information on AIDS, means of its spreading, and preventive measures;

—Posters;

—Standardized transmissions;

—Leaflets and promotional materials for Macedonians employed abroad.

Scientific Research

—Monitoring scientific research in the Republic on AIDS-related problems;

—Keeping records on studies and scientific research within the Republic;

—Procuring specialized publications;

—Organizing the time study of all seropositive cases in the Republic with a view to determining the duration of the asymptomatic period of carrying the virus and the factors that influence it;

—Organizing serological tests for high-risk population groups and monitoring seropositive cases and the factors which contribute to their growth.

2. Treatment of AIDS Patients

AIDS patients or those suspected of having AIDS will be treated at the Communicable Diseases and Febrile Conditions Clinic of Skopje's School of Medicine.

The treatment of AIDS patients at the clinic will last for the duration of the specific infection. Subsequent monitoring of the state of health and extent of the treatment will be assumed by the local health institution. The patient will be hospitalized again in the respective communicable disease hospital for any other related infection (whether different or the reactivation of the previous one), and so on until the fatal outcome. The actual treatment is not only extensive and repeated but is also very expensive, for it involves specific infections which attack an organism with a destroyed immunity system by the HIV virus, and most of the drugs are imported, difficult to procure, and very expensive.

3. Activities of the Republic Health Protection Institute

In order to implement the objectives and activities approved with the 1992 program, the institute will implement the following steps and activities:

Participate in drafting plans for the medical centers and health homes to prevent the spreading of AIDS in 1992, especially in higher-risk areas in which, in previous years, victims or carriers of the AIDS virus have been registered, in border areas, in areas with limited traffic and gatherings, and in tourist areas.

In charge: medical centers and health homes in cooperation with the Republic Health Protection Institute

Regional councils will be organized with the heads of the health organizations, of medical-hygiene and epidemiological establishments, and Republic sanitation and health inspectors. At such gatherings steps and activities will be formulated to prevent the spreading of AIDS in the area and in each specific separate unit (4).

In charge: the Republic Health Protection Institute

Regional seminars will be held at which health workers will become closely acquainted with the spreading and condition of AIDS and with the epidemiological measures taken, the epidemiological and clinical picture, the diagnosis of and a number of other features of AIDS, as well as with the steps that must be taken to prevent the spreading and ensure the detection of carriers of the AIDS virus and the sick.

In charge: the Republic Health Protection Institute and the Republic organizations listed in the operative plan of the Republic program

The serological diagnosis for AIDS will be based on a standard methodology. A seminar will be held on improving the methodology for laboratory diagnosis, mastering methods, and interpreting results.

In charge: the Republic Health Protection Institute, Republic Transfusion Institute; Communicable Diseases Clinic, and health organizations

Epidemiological research and serological control will be carried out in the Republic, aimed at the early detection of the sources and ways of transmission of AIDS, and improving knowledge on the behavior of specific high-risk population groups; Yugoslav workers returning from work in high-risk areas and in other risk areas (border, tourist, areas with diagnosed cases of the disease, or carriers of the virus, and so on) will be kept under serological observation.

In charge: the Republic Health Protection Institute, medical centers, and health homes

Epidemiological and serological tests will be conducted for each newly diagnosed case of the disease and of carriers of the AIDS virus with a view to identifying those infected.

In charge: Health organizations and the Republic Health Protection Institute

In the case of each confirmed patient or carrier of the AIDS virus, the special form will be filled on infection with or death caused by AIDS. It will be submitted to the Hematological Control Service or the Health Protection Institute of the respective area; three copies of the form will be submitted to the Republic Health Protection Institute; the Republic Health Protection Institute will submit two copies to the Republic Health Ministry.

In charge: Medical centers, health homes, and the Republic Health Protection Institute

The epidemiological study of the disease will be made and advice regarding suitable treatment will be provided by the epidemiologist of the health organization and the Republic Health Protection Institute to any person confirmed as carrier of the AIDS virus. Positive carriers will be placed under constant epidemiological supervision, and their health condition will be monitored. The moment the initial symptoms of the disease are manifested, said individuals will be mandatorily hospitalized in the proper communicable disease clinic. Patients whose condition caused by a specific disease has been temporarily healed and who have been released by the Communicable Diseases Clinic, will be once again subject to epidemiological supervision.

In charge: Health organizations and the Republic Health Protection Institute

The medical establishments and the Republic Health Protection Institute will keep on file the specific data and documentation concerning the carriers of the virus, especially those infected with AIDS, and fill a special form on cases of illness or death caused by AIDS.

In charge: Health organizations and the Republic Health Protection Institute.

Steps will be taken to provide health information and instruction to the population to ensure a responsible attitude on the part of every individual and to train a broad range of health workers in charge of social and child protection and education, as the basic step for the prevention and containment of AIDS. Health-education materials, leaflets, posters, films, cassettes, pamphlets, the NARODNO ZDRAVJE periodical, and other means will be used.

In charge: The health organizations, the Republic Health Protection Institute, the Red Cross, and the other Republic health organizations included in the operative plan of the Republic's program.

Scientific research at home and abroad will be monitored and records will be kept on studies and scientific research done in the Republic. Specialized publications will be procured.

The time tracking of all seropositive cases in the Republic will be organized, with a view to determining the duration of the asymptomatic period of the carriers of the virus and the factors influencing that duration. Increases in seropositive cases and the factors which contribute to such increases will be monitored.

In charge: the Republic Health Protection Institute.

Examinations will be held and expert epidemiological supervision will be provided by the health establishments in all areas on the implementation of the stipulated measures for containing and preventing the spreading of communicable diseases. Records will be supplied to the Republic Health Inspector and the Republic inspectors in charge of the specific units and the directors of health establishments.

The Republic Health Protection Institute will organize, coordinate, and directly participate in providing expert methodological assistance, and implementing the requirements related to laboratory activities, treatment, hospitalization, health education, and other efforts aimed at fighting AIDS, in accordance with the achievements and practical experience acquired throughout the world and the recommendations of the WHO. In this connection, prompt information will be made available, in addition to expert instructions and active participation in the work of the Republic AIDS Commission. It will engage in regular expert cooperation and exchange of expert and scientific knowledge and achievements with all interested and responsible institutions and cooperate with the information media.

4. Activities of the Communicable Diseases and Febrile Conditions Clinic of the Skopje School of Medicine

The Communicable Diseases and Febrile Conditions Clinic in Skopje will provide serological studies on the spreading of HIV virus antibodies among populations with higher AIDS risk.

Individuals in the risk groups and those suspected of being infected with AIDS will be clinically tested; all individuals belonging to said group will undergo immunoenzyme testing. Health workers will be instructed, informed, and given expert training.

According to their immunological status, patients suffering from individual infections and individuals belonging to the risk groups will be subject to additional immunological-enzyme tests involving the use of other enzyme markers.

In charge: Communicable Diseases and Febrile Conditions Clinic.

Individuals who are confirmed carriers of the HIV virus will be subject to confirmation tests to confirm the diagnosis of AIDS.

Qualifications for and use of the Western blot test method will be determined.

The Communicable Diseases and Febrile Conditions Clinic will become qualified for the hospitalization, diagnosis, and treatment of AIDS patients.

Further facilities will be installed and premises will be organized for the hospitalization and treatment of the sick.

Further training of the medical cadres (physicians, nurses, laboratory workers) will be provided by assigning them to clinics and laboratories at home and abroad, and for attending various seminars, symposia, and congresses at which contemporary knowledge on AIDS problems both at home and abroad will be shared.

In charge: Communicable Diseases and Febrile Conditions Clinic.

The clinic will train counselors for work with patients in the risk groups and other individuals who request an examination, testing, and information concerning diseases, in order to ensure their prevention. The clinic will keep a diary and set up files for this purpose.

5. Activities of Stomatological Clinics of the Skopje Stomatological Department

The Stomatological Clinics of the Stomatological Department will carry out the following program activities:

Provide expert supervision and expert medical assistance to the stomatological services in the medical centers and health homes in the Republic. The purpose will be to make health workers in stomatological activities better familiar with the nature and means of preventing the infection of patients and health workers, as well as with means of disinfecting the equipment and instruments used in ordinary stomatological practices. Furthermore, they will be encouraged to procure the most necessary equipment, instruments, and means of protection. All this is based on the view that dental help in the Republic is sought annually by about 2,250,000 people, a large number of whom bleed and are exposed to the risk of AIDS infection.

In charge: the stomatological clinics.

Expert assistance will be provided to the stomatological services of health institutions in formulating plans for preventing the spreading of AIDS and in the activities of dental services in health establishments.

In charge: the stomatological clinics.

Additional and updated expert instruction will be supervised, for protection from AIDS, provided by the stomatological clinics and supplied in adequate amounts to all stomatological services in the Republic. New instructions will be drafted as well.

In charge: the stomatological clinics.

Consultations for the health personnel engaged in stomatological activities will be provided on a regional basis, informing them of the latest practices in the prevention of such diseases, as practiced in other centers in Yugoslavia and Europe. Such consultations will be provided by expert personnel of the stomatological clinics (4).

In charge: the stomatological clinics

The curriculum for students will include lectures on this problem in order to acquaint them with the features of that disease and the ways and means of the spreading of the infection and of the means of prevention.

Dentistry students and graduates will be trained in the easy detection of the individual infections in the mouth in the early stage of the disease.

In charge: the stomatological clinics

Repeated expert supervision and control will be practiced during the third quarter in all dental services in the Republic of Macedonia in order to provide further expert assistance to the stomatological workers, and determine the steps that were taken and the implementation of their operative programs drafted in the first half of the year.

Separate reports will be submitted to the Republic Sanitation and Health Inspectorate and the supervised health institutions.

In charge: the stomatological clinics

6. Activities of the Republic Transfusion Institute

To prevent the transmission of AIDS (HIV infection) and hepatitis (infection with HBV and HCV) through blood and blood derivatives.

A total of 65,000 containers will be tested for AIDS and hepatitis B (HIV antibodies and HBAg) by the Republic Transfusion Institute and 11 transfusion stations in the Republic in the following cities: Kavadarci, Tetovo, Stip, Titov Veles, Strumica, Prilep, Ohrid, Bitola, Kocani, Gevgelija, and Kumanovo.

In 1992 another seven blood transfusion centers will be equipped for blood testing: in Struga, Gostivar, Kicevo, Negotino, Kriva Palanka, and Debar.

Additional equipment must be supplied to the transfusion centers as well as trained personnel for testing for AIDS and HBAg so that all transfusion centers will be able to test for HIV antibodies and for HBAg. For the time being, such testing for centers without the proper equipment will be serviced by neighboring centers, so that all blood can be tested.

In charge: Republic Transfusion Institute and transfusion centers

Testing for infectious HCV (6,400 samples from different donors in various cities in the Republic of Macedonia for HBAg positive and HBAg negative), half of the total in 16 cities in Macedonia: Skopje, Kavadarci, Tetovo, Stip, Titov Veles, Strumica, Prilep, Ohrid, Bitola, Kocani, Gevgelija, Kumanovo, Struga, Kicevo, Kriva Palanka, and Gostivar, 400 samples per city, for 200 HBAg positive and 100 HBAg negative. In the future, such testing will be gradually expanded.

In charge: Republic Transfusion Institute

Seminars will be held with physicians working in the transfusion services in the Republic, as follows:

Seminar for protecting the health of donors and of personnel handling blood and blood derivatives;

Seminar for work in and supervision of laboratory work related to the identification of HIV, HBAg and HCV antibodies, documentation on the work done and processing of the results;

Seminar for the health education of donors related to infectious HIV, HBV, and HCV in schools, university departments, and work organizations, as part of the program for the health education of donors (the program will be aimed at the donors through the radio, television, the press, and other types of promotion).

In charge: Republic Transfusion Institute

Competition for writing the best article (description) of current knowledge concerning infectious HIV, HBV, and HCV, describing comprehensively problems related to infectious HBV, and activities of the WHO related to protecting the population from infectious HIV, HBV, and HCV. The conclusions of the Second Scientific Gathering on Virus Hepatites, held by the Macedonian Academy of Arts and Sciences on 4-5 October 1990, shall be made public and discussed. On a bimonthly basis the material must be published in the daily press and broadcast on radio and television. Such activities to be repeated on an annual basis.

In charge: Republic Transfusion Institute

The Institute will provide expert supervision and expert assistance to the blood-transfusion centers in the individual opstinas, particularly in connection with laboratory testing for AIDS and hepatitis B.

Reports must be drafted and submitted to the Republic Sanitation and Health Inspectorate, the Republic Health Protection Foundation, and the medical facilities in charge of providing expert supervision.

7. Activities of the Bardovci Nervous and Mental Diseases Hospital

The Nervous and Mental Diseases Hospital will formulate an annual program for the prevention and spreading of drug dependency and early identification of drug addicts who will be subject to specialized health supervision. The purpose of such program activities, in addition to the struggle with drug addiction, will also be aimed at preventing the spreading of AIDS among and by drug addicts.

In addition to the Skopje Consultation Center, expert and methodological aid will be provided in organizing and advancing work done in other consultation facilities in the larger centers in the Republic.

In charge: The Bardovci Nervous and Mental Diseases Hospital, Skopje

Expert instructions will be issued regulating the work of the consultation centers, especially in preventing the spreading of AIDS among and by drug addicts, as well as promotional publications aimed at drug addicts and encouraging health education activities by health and educational personnel.

In charge: the Bardovci Nervous and Mental Diseases Hospital, Skopje

Regional seminars and consultations will be held in cooperation with consultations about drug addicts for the health personnel in the individual areas, as well as for anyone involved in preventing and eliminating drug addiction, with emphasis on taking all the necessary steps to prevent the spreading of AIDS through drug addiction (4).

In charge: the Bardovci Hospital for Nervous and Mental Diseases and the health institutions in the Republic

Expert supervision will be provided in taking the steps included in the program and the stipulations of the health regulations in the Republic. Information will be provided on expert supervision and submitted to the Republic Sanitation and Health Inspectorate and the health establishment in charge of supervision.

In charge: the Bardovci Hospital for Nervous and Mental Diseases, Skopje

The organization and responsibility for the regular and systematic testing of all drug addicts in the Republic for the HIV virus no less than four times annually or more frequently on the basis of epidemiological indications. In the case of persons who have tested positive, steps will be taken to ensure definitive proof. Said individuals will be kept under permanent health supervision and given health instruction. Furthermore, steps will be taken to test all individuals with epidemiological indication of positive HIV.

In charge: the Bardovci Hospital for Nervous and Mental Diseases, Skopje

Use will be made of the daily press, and the radio and television, to promote health education related to preventing the spreading of drug addiction and of AIDS through drug addiction.

In charge: the Bardovci Hospital for Nervous and Mental Diseases, Skopje

8. Activities of the Macedonian Red Cross Organization

Several times each year regional seminars will be organized to train cadres to teach health education, related to the elimination and the spreading of AIDS.

Intensive health education activities involving the young generation will be promoted (broadcasts, showing of the "AIDS in Young People" motion picture and distribution of propaganda materials) in all Republic opstinas.

Brochures, leaflets, and posters on AIDS will be produced and printed. Films on AIDS will be procured and issued to the Red Cross organizations in all Republic units and health institutions.

9. Activities of the Republic Expert Commission on the Organization and Suggestion of Steps for Protection From Aids

Formulate draft programs and plans for the protection of the Republic's population from AIDS;

Monitor the situation and, in the outbreak of AIDS cases in the Republic, coordinate activities and steps among organizations involved through their own activities and steps in preventing the spreading the disease;

Submit proposals to the Minister of Health on steps and activities should an outbreak or danger of outbreak of AIDS appear in the Republic.

B. Funds for the Implementation of the Program

In order to implement the Program for the Protection of the Population in the Republic of Macedonia from the AIDS Syndrome for the current 1992, funds totaling 47,550,000 denars will be needed. The funds have been estimated on the basis of December 1991 prices.

1. In-hospital treatment: 15 million denars.

In-hospital treatment is mandatory in all cases in which an AIDS patient suffers from a specific infection, until it has been treated, after which the individual may continue his treatment at home. Repeated hospitalization will be provided for a period of two to three years until the lethal outcome, so that, on an average, in-hospital treatment per individual will cost about 5 million; for three patients at 5 million each, 15 million.

2. The basic health protection (outpatient-polyclinical treatment and testing) and hygiene-epidemiological activities on Republic territory: 11,200,000 denars.

The outpatient-polyclinical testing and treatment of patients after their release from the hospital will continue along with taking all the necessary hygiene-epidemiological and antiepidemiological steps until the next hospitalization for a specific infection. Furthermore, it is anticipated that all HIV-positive individuals

will be monitored and all the necessary hygiene-epidemiological and antiepidemiological steps will be taken, as well as all epidemiological studies will be made to identify undetected carriers of the HIV virus, including:

Monitoring all individuals temporarily discharged after hospital treatment;

Monitoring anyone who is HIV-positive, as well as early detection of new carriers;

Epidemiological, serological, and clinical tests;

Formulation of operative programs;

Cooperation with educational and instruction institutions and the Red Cross and other entities interested and responsible in connection with the health instruction of the population, especially in the schools and among young people and among individual high-risk population groups.

3. Activities of the Republic Health Protection Institute: 5,600,000 denars.

4. Activities of the Communicable Diseases and Febrile Conditions Clinic: 4,200,000 denars.

5. Activities of stomatological clinics of the Skopje Stomatological Department: 4,200,000 denars.

6. Activities of the Republic Transfusion Institute: 4,900,000 denars.

7. Activities of the Bardovci Hospital for Nervous and Mental Diseases Hospital, Skopje: 1,400,000 denars.

8. Activities of the Macedonian Red Cross: 700,000 denars.

9. Activities of the Republic Commission: 350 million denars.

Total: 47,550,000,000 denars [sic]

10. Fund Sources

Sources for basic health protection (outpatient-polyclinical testing and treatment) and hygiene-epidemiological activities in the opstinas and Republic medical establishments and the Macedonian Red Cross involved in the implementation of the program will be provided, for the first 80 percent, out of funds for health insurance, and 20 percent from the Republic's budget, as follows:

Health insurance funds: 38 million denars;

The Republic budget: 9,550,000 denars;

Total: 47,550,000 denars.

The allocation of funds out of such sources will be based on the regular supervision of work done and reports and receipts received and, the proposed expert consideration of the Republic Expert Commission on the Organization and Submission of Measures for Protection From AIDS.

The implementation of this program will be assigned to the Ministry of Health, which will regularly report to the government of the Republic of Macedonia.

The mentioned program shall be published in the SLUZBEN VESNIK NA REPUBLIKA MAKEDONIJA.

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